United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 77th CONGRESS, SECOND SESSION

SENATE

TUESDAY, OCTOBER 20, 1942

(Legislative day of Thursday, October 15, 1942)

The Senate met at 12 o'clock noon, on the expiration of the recess.

The Chaplain, Rev. Frederick Brown Harris, D. D., offered the following prayer:

Our Father God, frail children of earth's fleeting scenes we lift lame hands of prayer to Thee who art from everlasting to everlasting. From the grinding daily schedules which drain our strength and enmesh our hearts and minds we would for these dedicated moments gaze up and out to the eternal principles which give worth and meaning to all that we do or say here. Purge our hearts of unworthy entanglements and shabby motives which may mar and blot the future's broadening way. In a world that has become a neighborhood where we must make it a brotherhood or perish, join us to that increasing legion that across the boundaries of prejudice, intolerance, and hatred, extends the dominion of healing good will. Make our spirits living links to unite the broken life of man in a new depth of understanding friendship. Out of the ruins of our shattered hopes may Thy kingdom come. Thou who through storm and night art still guiding and guarding, to Thee aloud we cry, "God save the state!" We ask it in the Name that is above every name. Amen.

THE JOURNAL

On request of Mr. BARKLEY, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Monday, October 19, 1942, was dispensed with, and the Journal was approved.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Miller, one of his secretaries, who also announced that on October 17, 1942, the President had approved and signed the following acts:

S. 1216. An act for the relief of Henry (Heinz) Gabriel;

S. 2275. An act to amend section 10 of Public, No. 360, Seventy-seventh Congress, to grant national service life insurance in the cases of certain Navy or Army flying cadets and aviation students who died as the result of aviation accident in line of duty between October 8, 1940, and June 3, 1941; and

S. 2442. An act to authorize the Secretary of War to approve a standard design for a service flag and a service lapel button.

CALL OF THE ROLL

Mr. HILL. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Gerry	Pepper
Andrews	Gillette	Radcliffe
Austin	Green	Reed
Bailey	Guffey	Reynolds
Ball	Gurney	Rosier
Barbour	Hatch	Russell
Barkley	Hayden	Schwartz
Bilbo	Hill	Shipstead
Bone	Johnson, Calif.	Smathers
Brewster	Kilgore	Spencer
Bulow	La Follette	Thomas, Idaho
Bunker	Langer	Thomas, Okla.
Burton	Lee	Thomas, Utah
Butler	McFarland	Tobey
Capper	McKellar	Tunnell
Caraway	McNary	Tydings
Chandler	Maloney	Vandenberg
Chavez	Maybank	Van Nuys
Connally	Mead	Wagner
Danaher	Murdock	Wallgren
Davis	Norris	Walsh
Downey	Nye	Wheeler
Doxey	O'Daniel	Wiley
Ellender	O'Mahoney	Willis
George	Overton	

Mr. HILL. I announce that the Senator from Virginia [Mr. GLASS] and the Senator from Delaware [Mr. HUGHES] are absent from the Senate because of illness.

The Senator from Alabama [Mr. BANKHEAD], the Senator from Michigan [Mr. BROWN], the Senator from Virginia [Mr. BYRD], the Senator from Idaho [Mr. CLARK], the Senator from Missouri [Mr. CLARK], the Senator from Iowa [Mr. HERRING], the Senator from Colorado [Mr. JOHNSON] the Senator from Illinois [Mr. LUCAS], the Senator from Nevada [Mr. MCCARRAN], the Senator from Montana [Mr. MURRAY], the Senator from South Carolina [Mr. SMITH], the Senator from Tennessee [Mr. STEWART], and the Senator from Missouri [Mr. TRUMAN] are necessarily absent.

Mr. MCNARY. The Senator from New Hampshire [Mr. BRIDGES], the Senator from Illinois [Mr. BROOKS], the Senator from Oregon [Mr. HOLMAN], the Senator from Massachusetts [Mr. LODGE], the Senator from Colorado [Mr. MILLIKIN], and the Senator from Ohio [Mr. TAFT] are necessarily absent.

The VICE PRESIDENT. Seventy-four Senators have answered to their names. A quorum is present.

DISPOSITION OF EXECUTIVE PAPERS

The VICE PRESIDENT laid before the Senate a letter from the Archivist of the United States, transmitting, pursuant to law, lists of papers and documents on the files of the Departments of War (2) and Agriculture (5), and the Federal Works Agency, which are not needed in the conduct of business and have no permanent value or historical interest, and requesting action looking toward their disposition, which, with the accompanying papers, was referred to the Joint Select Committee on the Disposition of Papers in the Executive Departments.

The VICE PRESIDENT appointed Mr. BARKLEY and Mr. BREWSTER members of the committee on the part of the Senate.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the VICE PRESIDENT:

Telegrams in the nature of memorials from the America All Mothers Clubs of Connersville and Richmond, Ind., remonstrating against the enactment of legislation to reduce the draft age limit; ordered to lie on the table.

By Mr. CAPPER:

A petition, numerously signed, of sundry citizens of McPherson, Kans., praying for the enactment of Senate bill 860, to prohibit the sale of alcoholic liquor and to suppress vice in the vicinity of military camps and naval establishments; ordered to lie on the table.

RELIEF OF OWNERS OF BUSINESSES, ETC.—RESOLUTION OF CITY COUNCIL OF MIAMI BEACH, FLA.

Mr. PEPPER presented a resolution adopted by the City Council of the City of Miami Beach, Fla., which was referred to the Committee on Banking and Currency and ordered to be printed in the RECORD, as follows:

Resolution 5595

Whereas it has been brought to the attention of the city council of the city of Miami Beach, Fla., that on May 18, 1942, there was introduced in the Senate of the United States by Senator PEPPER, of Florida, and Senator DOWNEY, of California, a bill (S. 2540); and

Whereas on September 9, 1942, there was introduced in the House of Representatives of the United States by Congressman GREEN, of Florida, a bill (H. R. 7533); and

Whereas one of the objections of each of said bills is to furnish relief, through the Reconstruction Finance Corporation, to prevent and relieve distress among owners of

businesses and properties located in resort cities and towns which have lost their earning power by reason of the war effort: Now, therefore, be it

Resolved by the City Council of the City of Miami Beach, Fla., That the objectives of said Senate bill 2540 and said House bill 7533 be, and they are hereby, approved; be it further

Resolved, That certified copies of this resolution be furnished to Senators PEPPER and ANDREWS, of Florida, Senator DOWNEY, of California, and Congressmen GREEN, CANNON, PETERSON, CALDWELL, and HENDRICKS.

Passed and adopted this 7th day of October A. D. 1942.

VAL C. CLEARY, *Mayor.*

Attest:
C. W. TOMLINSON,
City Clerk.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURTON, from the Committee on the District of Columbia:

S. 2046. A bill to amend an act entitled "An act to amend the Code of the District of Columbia to provide for the organization and regulation of cooperative associations, and for other purposes," approved June 10, 1940; without amendment (Rept. No. 1647); and

S. 2734. A bill to amend an act entitled "An act to create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes," approved May 1, 1906, as amended, and for other purposes; without amendment (Rept. No. 1648).

By Mr. WAGNER, from the Committee on Banking and Currency:

S. 2746. A bill to authorize the Reconstruction Finance Corporation to make loans to those desiring to engage in producing minerals of value to the United States in time of war; without amendment (Rept. No. 1649); and

S. 2783. A bill to amend the act entitled "An act relating to direct loans for industrial purposes by Federal Reserve banks, and for other purposes," as amended, by authorizing loans for mineral development purposes in time of war; without amendment (Rept. No. 1650).

By Mr. THOMAS of Utah (for Mr. MURRAY), from the Committee on Education and Labor:

S. 1666. A bill to coordinate Federal reporting services, to eliminate duplication and reduce the cost of such services, and to minimize the burdens of furnishing reports and information to governmental agencies; with amendments (Rept. No. 1651).

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. VANDENBERG:

S. 2865. A bill to provide for the restoration to active duty of Capt. Walter S. Strange, United States Army, retired; to the Committee on Military Affairs.

By Mr. HATCH:

S. 2866. A bill relating to the functions of the judge of the United States Court for China; to the Committee on the Judiciary.

By Mr. VAN NUYS:

S. 2867. A bill to provide for the appointment of an additional circuit judge for the fifth circuit; to the Committee on the Judiciary.

By Mr. LANGER:

S. 2868. A bill to prohibit Members of Congress from accepting Federal employment; to the Committee on the Judiciary.

By Mr. PEPPER:

S. 2869. A bill for the relief of F. B. Sweat; to the Committee on Claims.

S. 2870. A bill to provide for a method of voting, in time of war, by seamen absent from the place of their residence; to the Committee on Privileges and Elections.

REDUCTION OF DRAFT-AGE LIMIT—AMENDMENT

Mr. THOMAS of Idaho submitted an amendment intended to be proposed by him to the bill (S. 2748) to amend the Selective Training and Service Act of 1940 by providing for the extension of liability, which was ordered to lie on the table and to be printed.

ECONOMIC AND SOCIAL CONDITIONS IN PUERTO RICO

Mr. CHAVEZ submitted the following resolution (S. Res. 309), which was referred to the Committee on Territories and Insular Affairs:

Resolved, That a subcommittee of the Committee on Territories and Insular Affairs, to be composed of five members of such committee appointed by the chairman thereof, is authorized and directed to make a full and complete study and investigation with respect to economic and social conditions in Puerto Rico resulting from the interruption of the normal flow of trade between Puerto Rico and the United States which has been brought about by the war. The subcommittee shall report to the Committee on Territories and Insular Affairs the results of its study and investigation, together with its recommendations, at the earliest practicable date.

For the purposes of this resolution the subcommittee, or any member thereof duly authorized by the chairman of the subcommittee, is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Senate in the Seventy-seventh and Seventy-eighth Congresses, to employ and to call upon the executive departments for such experts and such clerical and other assistants, to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures, as it or he deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per 100 words. The expenses of the subcommittee, which shall not exceed $5,000, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the subcommittee.

AMENDMENT OF WOMEN'S ARMY AUXILIARY CORPS ACT—CONFERENCE REPORT

Mr. AUSTIN submitted the following report, which was considered by unanimous consent and agreed to:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2751) to amend the act entitled "An Act to establish a Women's Army Auxiliary Corps for service with the Army of the United States," approved May 14, 1942, to create the grade of field director in such corps, to provide for enrolled grades in such corps comparable to the enlisted grades in the Regular Army, to provide pay and allowances for all members of such corps at the same rates as those payable to members of the Regular Army in corresponding grades, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendment.

ROBT. R. REYNOLDS,
ELBERT D. THOMAS,
ED C. JOHNSON,
WARREN R. AUSTIN,
CHAN GURNEY,
Managers on the part of the Senate.

A. J. MAY,
R. E. THOMASON,
W. G. ANDREWS,
FOREST A. HARNESS,
Managers on the part of the House.

NATIONAL DEFENSE LEGISLATION ENACTED PRIOR TO DECEMBER 7, 1941

[Mr. BARKLEY asked and obtained leave to have printed in the RECORD a compilation of national defense legislation enacted by Congress prior to December 7, 1941, which appears in the Appendix.]

BRITISH-AMERICAN TRADE RELATIONS AFTER THE WAR

[Mr. HILL asked and obtained leave to have printed in the RECORD an address entitled "British-American Trade Relations After the War," delivered by Mr. Harry Hawkins, Chief of the Division of Commercial Policy and Trade Agreements of the Department of State before the National Foreign Trade Convention, in Boston, Mass., on October 9, 1942 which appears in the Appendix.]

BERNARD BARUCH—EDITORIAL FROM RICHMOND TIMES-DISPATCH

[Mr. MAYBANK asked and obtained leave to have printed in the RECORD an editorial entitled "Our Hidden Strength," published in the Richmond Times-Dispatch, which appears in the Appendix.]

CAUGHT IN THE NETWORKS—EDITORIAL FROM THE NATION

[Mr. LA FOLLETTE asked and obtained leave to have printed ir the RECORD an editorial from the Nation of October 17, 1942, entitled "Caught in the Networks," which appears in the Appendix.]

ADMISSION OF FILIPINOS INTO THE COAST GUARD RESERVE

Mr. WALSH. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1688, House bill 7455, a bill relating to the enlistment of Filipinos in the Coast Guard Reserve. There is no opposition to the bill. The Navy is much interested in it and has urged and requested early action.

The purpose of the bill is generally as stated in its title. The existing law restricts eligibility for membership in the Coast Guard Reserve to "male citizens of the United States and of its Territories and possessions, except the Philippine Islands." The exclusion of Filipinos from membership at the time of enactment of the original Coast Guard Reserve Act, was based solely on the fact that the independence of the Philippine Islands was considered imminent.

The Navy Department recommends the enactment of the bill and reports that it has been advised by the Bureau of the Budget that there would be no objection to the submission of this recommendation. Furthermore, the Navy Department reports that the enactment of the proposed legislation would involve no additional cost to the Government.

The Navy Department believes that this restriction should now be removed

in view of the changed situation resulting from the war. It has been necessary to reject applications of Filipinos for membership who have suitable boats which could be utilized in the service of the Coast Guard in furtherance of the war effort.

The VICE PRESIDENT. Is there objection to the consideration of the bill?

There being no objection, the bill (H. R. 7455) to amend the Coast Guard Auxiliary and Reserve Act of 1941, as amended, so as to enable Filipinos to qualify for service thereunder, was considered, ordered to a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That sections 3, 202, and 207 of the Coast Guard Auxiliary and Reserve Act of 1941 (55 Stat. 11), as amended (U. S. C., Supp. I, title 14, ch. 9), which define the composition of the Coast Guard Auxiliary and of the Coast Guard Reserve, are hereby amended by changing the phrase "except the Philippine Islands," appearing therein, to the phrase "including the Philippine Islands."

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Swanson, one of its clerks, announced that the House had passed without amendment the following bills of the Senate:

S. 1468. An act to authorize the Secretary of the Navy to establish a fuel depot at Middle and Orchard Points, Wash.;

S. 2327. An act to provide for payment and settlement of mileage accounts of officers and travel allowance of enlisted men of the Navy, Marine Corps, and Coast Guard;

S. 2369. An act for the acquisition of Indian lands required in connection with the construction, operation, and maintenance of electric transmission lines and other works, Parker Dam power project, Arizona-California;

S. 2555. An act to authorize the use of certificates by officers of the Army, Navy, Marine Corps, and Coast Guard of the United States, in connection with pay and allowance accounts of military and civilian personnel under the jurisdiction of the War and Navy Departments; and

S. 2706. An act to amend the act entitled "An act to expedite national defense, and for other purposes," approved June 28, 1940 (54 Stat. 676), and "Title IV of the Naval Appropriation Act for the fiscal year 1941," approved September 9, 1940 (54 Stat. 883).

The message also announced that the House had passed the bill (S. 2381) to provide that certain provisions of law relating to the Navy shall be held applicable to the personnel of the Coast Guard when that service is operating as a part of the Navy, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7378) to provide revenue, and for other purposes.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 4578. An act to authorize certain corrections in the tribal membership roll of the Puyallup Tribe of Indians in the State of Washington, and for other purposes;

H. R. 5569. An act to amend the Nationality Act of 1940, to preserve the nationality of naturalized veterans of the Spanish-American War and of the World War, and of their wives, minor children, and dependent parents;

H. R. 6165. An act preserving the nationality of a person born in Puerto Rico who resides for 5 years in a foreign state;

H. R. 6839. An act relating to the appointment and retirement in the Naval and Marine Corps Reserve of persons with physical disabilities, and for other purposes;

H. R. 7330. An act to provide for granting to the State of New Mexico the right, title, and interest of the United States in and to certain lands in New Mexico;

H. R. 7424. An act to amend and clarify certain provisions of law relating to functions of the War Shipping Administration, and for other purposes;

H. R. 7491. An act to provide for the granting of rights-of-way for pipe lines for petroleum and petroleum products and for telephone and/or telegraph lines along and across certain parkway lands in the District of Columbia;

H. R. 7573. An act to authorize the Secretary of War, the Secretary of the Navy, the Commissioners of the District of Columbia, and the Director of the Bureau of the Budget to acquire motor-propelled passenger-carrying vehicles necessary for the successful prosecution of the present war;

H. R. 7575. An act to expedite the prosecution of war, and for other purposes;

H. R. 7621. An act to amend the District of Columbia Unemployment Compensation Act;

H. R. 7632. An act to provide that during the present war payments with respect to any crop of sugarbeets or sugarcane shall not be subject to deductions on account of the employment of children;

H. R. 7638. An act to restore and add certain public lands to the Uintah and Ouray Reservation in Utah, and for other purposes; and

H. R. 7661. An act to amend title I of Public Law No. 2, Seventy-third Congress, March 20, 1933, and the Veterans Regulations to provide for rehabilitation of disabled veterans, and for other purposes.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred as indicated:

H. R. 4578. An act to authorize certain corrections in the tribal membership roll of the Puyallup Tribe of Indians in the State of Washington, and for other purposes; to the Committee on Indian Affairs.

H. R. 5569. An act to amend the Nationality Act of 1940, to preserve the nationality of naturalized veterans of the Spanish-American War and of the World War, and of their wives, minor children, and dependent parents; and

H. R. 6165. An act preserving the nationality of a person born in Puerto Rico who resides for 5 years in a foreign state; to the Committee on Immigration.

H. R 6839. An act relating to the appointment and retirement in the Naval and Marine Corps Reserve of persons with physical disabilities and for other purposes; and

H. R. 7575. An act to expedite the prosecution of war, and for other purposes; to the Committee on Naval Affairs.

H. R. 7330. An act to provide for granting to the State of New Mexico the right, title, and interest of the United States in and to certain lands in New Mexico; and

H. R. 7638. An act to restore and add certain public lands to the Uintah and Ouray Reservation in Utah, and for other purposes; to the Committee on. Public Lands and Surveys.

H. R. 7424. An act to amend and clarify certain provisions of law relating to functions of the War Shipping Administration, and for other purposes; to the Committee on Commerce.

H. R. 7573. An act to authorize the Secretary of War, the Secretary of the Navy, the Commissioners of the District of Columbia, and the Director of the Bureau of the Budget to acquire motor-propelled passenger-carrying vehicles necessary for the successful prosecution of the present war; to the Committee on Appropriations.

H. R. 7491. An act to provide for the granting of rights-of-way for pipe lines for petroleum and petroleum products and for telephone and/or telegraph lines along and across certain parkway lands in the District of Columbia; and

H. R. 7621. An act to amend the District of Columbia Unemployment Compensation Act; to the Committee on the District of Columbia.

H. R. 7632. An act to provide that during the present war payments with respect to any crop of sugar beets or sugarcane shall not be subject to deductions on account of the employment of children; and

H. R. 7661. An act to amend title I of Public Law No. 2, Seventy-third Congress, March 20, 1933, and the Veterans Regulations to provide for rehabilitation of disabled veterans, and for other purposes; to the Committee on Finance.

SUPPLEMENTAL NATIONAL DEFENSE APPROPRIATIONS

The Senate resumed the consideration of the bill (H. R. 7672) making supplemental appropriations for the national defense for the fiscal year ending June 30, 1943, and for other purposes.

Mr. McKELLAR. Mr. President, I hope we can carry out the unanimous-consent agreement and have the bill read for amendment.

The VICE PRESIDENT. The clerk will proceed to state the amendments reported by the Committee on Appropriations.

The first amendment of the Committee on Appropriations was, under the heading "Naval Establishment—Office of the Secretary," on page 2, after line 12, to insert:

Claims for damages by collision with naval vessels: To pay claims for damages adjusted and determined by the Secretary of the Navy under the provisions of the act entitled "An act to amend the act authorizing the Secretary of the Navy to settle claims for damages to private property arising from collisions with naval vessels", approved December 28, 1922, as fully set forth in Senate Document No. 251, Seventy-seventh Congress, $2,266.99.

The amendment was agreed to.

The next amendment was, under the heading "Bureau of Supplies and Accounts—Pay, Subsistence, and Transportation of Naval Personnel, 1943," on page 4, line 3, after the word "to", to strike out "more than 23" and insert "not more than 45."

Mr. WALSH. Mr. President, this amendment would increase the number of admirals who would be entitled to double their base pay because of their service as aviators, in addition to their regular naval service.

Mr. OVERTON. If the Senator will permit, it is one and a half times their base pay.

Mr. WALSH. As is well known, persons in the Aviation Corps, who actually engage in flying, and so certify, and whose service as aviators is certified by

the commanding officer, receive an increase in pay of 50 percent in addition to their base pay, which, of course, is one and a half times their base pay.

The policy of the Committee on Appropriations has been to limit the number of persons beyond the rank of captain who may obtain this increase. Under the present law there are 23 admirals who are entitled to the increased pay.

When the representatives of the Navy Department appeared in reference to naval items in the pending bill they testified that between now and the first of July next they expected to increase the number to 39, and the committee fixed 45 as the maximum number, as is set forth in the pending amendment.

I rose, Mr. President, to call attention to the fact that there is no limitation whatever on the number of generals of the Army with corresponding rank to admirals who may receive the extra pay, and the Navy feels that naval officers are being given a different treatment, which is not exactly fair to the Navy. However, the committee, apparently following its previous policy, has felt that the number should be limited.

I have risen to ask that the limit apply to the Army as well as to the Navy, because I personally believe in a limitation. The Navy would like to have the number unlimited, just as is the case with the Army, and I believe are entitled to the application of the same policy. Of course, there will not be any large number of admirals drawing this increased pay, as the testimony is that the greatest number the Navy expects to have between now and the first of July is 39, even if the number is unlimited, under the appropriation for this extra pay.

Mr. McKELLAR. Would the Senator desire to have a limitation on the number of Army officers entitled to the base pay inserted at this point?

Mr. WALSH. I do not know the numbers, but I do think that both services should be treated alike. I personally feel that the whole matter of extra pay for flying in the aviation service ought to be studied, and perhaps a different policy with respect to it should be adopted. It appears to me that, with the expanding of the Army and Navy into the field of aviation, we will reach a time when more than half the Army and Navy may be in aviation, and the officers of the Army and Navy who are not in aviation and who consider modern warfare on land and sea as dangerous as service in the air will ask for increased pay.

Mr. McKELLAR. Mr. President, I am glad to hear the Senator say that. I have very grave doubt about a provision of this kind. However, we took proof before the committee, heard testimony of officials, and fixed the maximum number at 45. I will say to the Senator that the next time the matter comes up I will appoint a subcommittee to examine into it very carefully, and we will confer with the Senator from Massachusetts before any change is made.

Mr. WALSH. I know the committee of which the able Senator from Tennessee is a member as well as the Committee on Naval Affairs have in the past given the matter much consideration. I think it is a subject that should be studied.

Mr. McKELLAR. I, too, think it should be studied.

Mr. WALSH. Recently, because of the increase of 50 percent in the base pay of aviators, we had to increase the base pay of persons in the submarine service by 50 percent. Their pay was formerly 25 percent higher than the base pay, and is not equal, as it should be, to aviators.

What I have said is preliminary to a request I wish to make, that the number be raised to 60. Officials of the Navy have asked that the limit be removed. I am not predisposed to make such a request, because I think there should be a limit on both the Army and the Navy. However, within the past few weeks, 20 captains in the Aviation Corps were promoted to the rank of admiral, and between now and next July we may need more than the 39 which the Navy has predicted would be needed, and they have called my attention to the situation. I suggest to the Senator that if it is agreeable, the number be increased to 60.

Mr. McKELLAR. Mr. President, there is considerable doubt with respect to what the percentage of increase should be. We have not gotten the facts as to how much more hazardous it is to fly in an airplane than it is to travel in surface naval vessels. It has been suggested that the hazard in flying is not 50 percent greater, and inasmuch as we have given more than was said to be necessary, and inasmuch as it was ascertained in the hearings that no admirals at all had been lost while flying, it seems to me that perhaps the number of 45 is sufficient at this time. I will say to the Senator from Massachusetts, however, that it will not be long before a regular bill will come before our committee, and we will undoubtedly go into this matter with a view of reaching some just conclusion about it and doing the fair and just thing by these officers, also including those in the Army.

Mr. WALSH. Mr. President, of course, flight pay in the past, in times of peace, has been given admirals for the purpose of having them continue to practice flying and to keep their hands in, so to speak. Of course, we are now reaching the situation when admirals may have to lead in air engagements, and to be in the air to direct air and naval operations. That is the reason why an increased number of admirals are being selected from the Air Corps, and also the reason why we ought to be careful with respect to the limitations we make. We ought to let the Navy have every such officer that it needs.

I have not communicated with the officers who appeared before the Senator's committee, but their superiors have communicated with me and indicated that there is some question about the number that may be needed as air admirals. All they ask is that in view of the uncertainties between now and July 1 consideration be given to this matter.

Mr. OVERTON. Mr. President, will the Senator yield?

Mr. WALSH. I yield.

Mr. OVERTON. We had this question up when the last regular Navy Department appropriation bill was before our committee. We went into it very thoroughly, and later we had quite a discussion on the floor with respect to it. We had considerable testimony on the subject in the hearings.

I thoroughly agree with the Senator from Massachusetts that the whole subject matter should be gone into with a view of determining exactly what policy should be adopted. Personally I am of the opinion that there is no justification for an increase in pay to officers in the Navy above the rank of captain who engage in flying. I think the same rule ought to be applied to those in the Army who are engaged in flying. The record shows that there is no increased hazard, at least that no fatalities have occurred to anyone above the rank of captain who is engaged in flying.

In the hearings the specific question was asked if any admiral had lost his life in the last year while flying. The answer was "No." The question was asked if any admiral while flying had lost his life in the last 2 years. Again the answer was "No." Then I asked whether any admiral at any time had lost his life while engaged in flying, and the answer again was "No." So I do not think there is really any justification for the increase, but I agree with the Senator from Massachusetts that——

Mr. WALSH. Pardon me, but I wish to say that I personally feel that those who do the real dangerous flying are the younger officers who are in the air constantly. The officers who lead the squadrons in the air are engaged in the most hazardous service.

Mr. OVERTON. When the regular War Department appropriation bill comes before the committee we will undertake to study the question from the standpoint of the Army and the Navy, and see what can be done.

Mr. WALSH. And treat them both alike; have the same policy with respect to both services.

Mr. OVERTON. Last year we limited the number to 23, and in addition we required that the officer above the rank of captain who engaged in flying should certify that the flight entailed extra hazards. We have eliminated that requirement. The officer can get his additional flight pay without making any certificate that his flying has involved extra hazards.

Mr. WALSH. We are in accord on that point. We are also in accord on the policy that both services should be treated alike.

Mr. McKELLAR. Yes.

Mr. WALSH. And about the proposal to increase the number.

Mr. OVERTON. During the hearings Admiral Davison, representing the Navy Department, testified. I read from the hearings:

> Senator OVERTON. During the next fiscal year, you have in contemplation more than fifty Admirals in the flying service, do you not?
>
> Admiral DAVISON. It will rise to a total of 43 during 1943.
>
> Senator OVERTON. Forty-three?
>
> Admiral DAVISON. Yes, sir.

That was the number of admirals it was contemplated would do any flying in 1943.

Mr. WALSH. That is true.

Mr. OVERTON. We added two more, so as to make it safe. I should like to hold it down to that figure, 45.

Mr. WALSH. I will not press the matter at this time. If it appears that 45 is not a sufficient number as the war progresses, I shall ask for an increase in the numerical limitation.

Mr. McKELLAR. I thank the Senator. We shall attempt to get a uniform rule for both the Army and the Navy.

Mr. WALSH. Yes. Senators can see the Navy's point of view. The Navy asks, "Why are we restricted by the Congress, while the Army has no restriction or check whatever placed upon it?"

Mr. OVERTON. I realize that.

The VICE PRESIDENT. The question is on agreeing to the amendment on page 4, line 3.

The amendment was agreed to.

The next amendment was, under the heading "Coast Guard", on page 6, line 16, after the word "to", to strike out "fifty-five" and insert "one hundred and fifty."

The amendment was agreed to.

The next amendment was, under the subhead "Defense Aid", on page 10, line 9, after the word "this", to strike out "Act" and insert "Title."

The amendment was agreed to.

The next amendment was, under the heading "Title II—General Appropriations—Legislative", after line 13, to insert:

SENATE

Senate restaurants: For payment to the Architect of the Capitol in accordance with the Act approved September 9, 1942 (Public Law 709, 77th Cong.), $20,000.

Mr. McKELLAR. Mr. President, on behalf of the committee I offer an amendment to the committee amendment on page 10, line 17, to strike out "20,000" and insert "$39,950." The purpose of the increase is to institute a cafeteria in the Senate Office Building. It is believed that it will work better and be better all around, and that will take an additional $17,000. Mr. Lynn, the Architect of the Capitol, appeared before the committee and made the request, and the committee has authorized the amendment. I hope it will be agreed to.

The VICE PRESIDENT. The question is on agreeing to the amendment to the committee amendment on page 10, line 17.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. McKELLAR. In that connection it will be necessary to offer an additional amendment on behalf of the committee, which I send to the desk and ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 10, after line 24, it is proposed to insert the following:

ARCHITECT OF THE CAPITOL

CAPITOL BUILDING AND GROUNDS

Senate Office Building: For an additional amount for maintenance, including the same objects specified under this head in the Legislative Branch Appropriation Act, 1943, $7,300.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Tennessee [Mr. McKELLAR].

The amendment was agreed to.

The next amendment was, on page 11, after line 9, to insert:

BOOKS FOR ADULT BLIND

For an additional amount for the maintenance and replacement of the Government-owned reproducers for sound-reproduction records for the blind, $20,000.

The amendment was agreed to.

The next amendment was, on page 11, after line 13, to insert:

THE JUDICIARY

MISCELLANEOUS ITEMS OF EXPENSE

Salaries and expenses, clerks of courts: For an additional amount for salaries and expenses of clerks, United States courts, fiscal year 1943, including the objects specified under this head in the Judiciary Establishment Appropriation Act, 1943, $57,874.

The amendment was agreed to.

The next amendment was, under the heading "Executive Office of the President—Board of Economic Warfare", on page 12, line 10, after the word "payment", to insert "when specifically authorized or approved by the Executive Director of the Board or such other official as he may designate for the purpose, of traveling expenses of employees of the Board, including the transportation of their effects, to their first post of duty in a foreign country or when transferred from one official station in the United States or elsewhere to another in a foreign country, and return to the United States; not to exceed $50,000 for transporting the dependents, including their effects, of such employees; reimbursement to employees of the Board for loss of effects in case of marine or aircraft disaster; payment."

The amendment was agreed to.

The next amendment was, on page 13, line 24, after the words "account of", to strike out "physical."

The amendment was agreed to.

The next amendment was, under the subhead "Office of War Information", on page 15, line 7, after the word "binding", to strike out "in the field" and insert "outside the continental limits of the United States"; and on page 16, line 12, before the word "injury", to strike out "physical."

The amendment was agreed to.

The next amendment was, under the subhead "War Manpower Commission" on page 17, line 12, to strike out $10,117,680" and insert "$11,117,680."

The amendment was agreed to.

Mr. AUSTIN. Mr. President, at the proper time in the consideration of the bill I wish to discuss this item, not with the view of changing it, but with the view of clarifying the question which arose yesterday in relation to it. I regard it of sufficient public interest and importance to call for a statement.

Mr. McKELLAR. Would not this be the best time for the Senator to proceed, because we have reached it now?

Mr. AUSTIN. Very well. I speak, Mr. President, of the amendment on page 17, line 12, affecting the appropriation for the War Manpower Commission.

Mr. McKELLAR. That is the amendment which increases the appropriation by $1,000,000.

Mr. AUSTIN. Yes. I raised the question yesterday whether the appropriation was necessary, claiming that an occupational survey was already in process, and that it was national in scope, but was being carried out through the Selective Service System, which has local boards in 6,500 districts in the United States. I questioned the wisdom of an appropriation which might create conflicting authority over the same activity, because the record of hearings on this matter raised a question.

Referring to page 464 of the hearings before the subcommittee of the Committee on Appropriations of the House of Representatives, Mr. McNutt, Chairman of the War Manpower Commission, made this statement:

At the request of the Selective Service System, the Employment Service is compiling a Nation-wide occupational inventory of the skills and occupations of this country's manpower. This information is urgently needed by the War Manpower Commission, the Selective Service System, and the War Department for planning effectively the maximum utilization of all our labor resources. In conducting the inventory, it is the responsibility of the Employment Service to interview those selective-service registrants possessing critical skills which are not being used in the furtherance of the war program, and to place these workers in war industries where their services are urgently needed. At the end of August, approximately 17,500,000 of the occupational questionnaires had been received from the Selective Service System. Due to a shortage of funds, the Employment Service has been able to process and classify only 6,500,000 of these questionnaires. Unless the additional funds now requested are provided, it will be impossible for the Employment Service to complete this project during the current fiscal year, especially since an additional 22,000,000 forms are yet to be received in the employment offices, making a total of 39,600,000 in all.

That raised a serious question relating to, What is the fact? Who is responsible for compiling a Nation-wide occupational inventory? Who is doing it? Based upon that statement, is Congress, by this appropriation, changing its policy in a very important matter?

I say "very important matter" because the registration of all men between the ages of 18 and 65, with respect to every vital statistic which bears upon the question of what use can be made of them in the total war, is probably the most important and delicate function that any governmental agency has to perform. I do not hesitate to make the claim that it should not be performed by an agency headed by a person who is interested in a political end. I have no doubt that such a transaction should be as free as possible from interest—even the interest of compensation for the employment. It was the policy of Congress, when the Selective Training and Service Act was passed, to remove the process of registering and selecting men from all adventitious influences and place it in the local boards, which were appointed upon the recommendation of the governors of the States, and which were taken from the community in which the men who were

to be classified lived. Such boards are without any political interest in the judgments which they pass. They do not even have as much interest as compensation gives a person in the performance of the duties of his office, for according to the policy of Congress all of them serve without any compensation as such, and only such reimbursement as amounts to a very small sum for travel and expenses.

Mr. PEPPER. Mr. President, will the Senator yield?

Mr. AUSTIN. I yield.

Mr. PEPPER. I am very much interested in what the able Senator is saying. If I understand correctly, the amount proposed to be apportioned for the completion of this selective service inquiry by the War Manpower Commission is $5,000,000?

Mr. AUSTIN. Yes.

Mr. PEPPER. I notice on page 71 of the Senate hearings that the letter from the Chairman of the Manpower Commission to the chairman of the Appropriations Committee indicates that it will be impossible for this important task to be completed during this fiscal year. Does that mean by the end of June 1943?

Mr. AUSTIN. Yes.

Mr. PEPPER. Does the able Senator take that to mean that these data will not be in the hands of the Government before the end of the next fiscal year, that is, June 30, 1943, if these funds are appropriated?

Mr. AUSTIN. Mr. President, that is the logical interpretation of the letter.

Mr. PEPPER. I make the inquiry in view of information which has been developed before a subcommittee of the Senate Committee on Education and Labor of which I have the honor to be chairman. That information came from Mr. J. C. Capt, Director of the Bureau of the Census. Mr. Capt stated that an annual census bringing up-to-date the 1940 census could be made by the Census Bureau in a period of 2 weeks from its initiation. He also stated that he could start such a census in approximately 60 days, with the employment of 8,000 persons, all of whom would be women, and that the total cost would not exceed $4,000,000 or $4,500,000.

It seems to me that it is most desirable that this information be obtained. With all deference to the Chairman of the War Manpower Commission, or any other agency of the Government, I do not know of any bureau or department of the Government better qualified to gain statistical data about the population of the United States than the Bureau of the Census. I believe it is pertinent to consider the facts I have just stated, namely, that such a census could be completed 2 weeks after its initiation, with 8,000 employees, all of whom would be women, that it would not cost more than four and a half million, and that it could be inaugurated in something like 60 days.

Mr. AUSTIN. I thank the Senator for his comments. They fit the picture which I have seen since we had the debate yesterday about this subject. I called upon the Selective Service System to give me information as to what actually has been done by it under the law in carrying out the policy of Congress with respect to a national inventory of occupations. I have that history very briefly before me, and I shall read it. In order to keep clear the application of this history to the remarks of the distinguished Senator from Florida, let me say that in pursuing this policy of Congress the Selective Service System has employed the Census Bureau and paid for its services out of funds appropriated to the Selective Service System for putting into categories the information already being collected and listed by the Selective Service System.

The point is—and that is why I rose—that it is done under the agency of Government which represents the policy of Congress, an agency set up by Congress under a statute, an agency which is close to the people, a democratic agency. It is because of my anxiety to keep the operating function where we placed it that I challenged this appropriation yesterday.

This is the story, and it is authentic:

In the summer of 1941 the Selective Service System decided to substitute a centralized statistical program based on an individual punch-card record of each registrant in place of a decentralized procedure of summary reports for each local board.

Such a program was initiated in the fall of 1941 with the development of plans for processing Report of Physical Examination and Induction (Forms 200 and 221), the only individual record of statistical consequence which was being received in national headquarters at that time. This document was to supply tabulated data for the United States and by States and local boards when necessary, on the physical defects, occupations, marital status, dependents, etc., of registrants selected for physical examination by local board and inductian station physicians.

That was a small group. That did not reach those who had been processed out by deferment. It reached those who were to be examined for induction into the armed forces. So we have the beginning of the work of making a national occupational survey—a small beginning.

The next step was to secure a control record of each of the 18,000,000 men then registered as a result of the first and second registrations; a data record of their occupations, work status, marital status, dependents, education, citizenship, age, race, etc., and an action record of each selective service classification given them. An opportunity for securing the control record was offered in connection with the third registration of 8,000,000, the fourth registration of 14,000,000, and the fifth registration of 3,000,000. A copy of List of Registrants (Form 3), for national headquarters was the medium for this control. Copies were also secured later for the first and second groups.

Now, as will be seen, both of them are tied in.

Along with the entrance of the United States into the war and the registering of groups 3, 4, and 5, there developed an interest by the Selective Service System and other agencies in the problems of industrial as well as military manpower, i. e., in the problems of total manpower.

Mr. President, let me say that I intend to turn back to the CONGRESSIONAL RECORD for the period immediately following our entrance into the war, and to refer to statements of distinguished Senators showing what was the policy of Congress about this subject.

Meantime I continue with the reading:

National headquarters thereupon undertook an inventory of critical and essential skills and professional and scientific qualifications of the 43,000,000 registrants.

Notice in the testimony of Chairman McNutt that he talks about 22,000,000 forms as yet to be received, making a total of 39,600,000 in all. Provision had already been made to cover the 43,000,000 registrants.

This survey started out to be an arrangement whereby the selective-service local boards would require each registrant to prepare an occupational questionnaire (Form 311).

That is the form to which I referred yesterday.

The board would then transmit one copy of the form to local offices of the United States Employment Service. This office would then interview men—

Remember that. I depart from the reading to emphasize the suggestion as to interviewing men, for I believe that is all there is in the activity of the War Manpower Commission for which the $5,000,000 is to provide. We shall come to that later.

This office would then interview men with the selected skills and occupations for the purpose of their better placement with reference to war production. Because of the growing emphasis on working qualifications, however the plan was adapted to require the registrant to fill out the questionnaire in duplicate.

There was some quarrel about that. The Manpower Commission did not want to have the Selective Service have a copy for its own use, but ultimately it was settled that the Selective Service System saved itself to the extent of having a copy for its own use.

Because of the growing emphasis on working qualifications, however, the plan was adapted to require the registrant to fill out the questionnaire in duplicate, the duplicate to remain in his local board file as an aid to his classification. The arrangement was then further changed to require his preparation of a digest or coupon covering the essential information on occupation, marital status, dependents, age, race, etc., from the questionnaire for submission by the local board to national headquarters where it would serve as the basis for tabulated data—

I pause in reading to say that it is this function of tabulating which the Census Bureau, referred to by the distinguished junior Senator from Florida, has done for the Selective Service System at the cost of the Selective Service System—

applicable to the planning and administering of the operations of the Selective Service program and programs of other agencies concerned with either or both military and industrial manpower.

Following the initiation of the occupational inventory, local boards undertook the preparation of Local Board Action Reports (Form 110) after each meeting to supply national headquarters with the classifications assigned to individual registrants at the meeting. This would allow the current classifications of registrants to be tied with the tabulations made from Form 311. Occupational tabulations by industrial area and State are being prepared from Form 311, showing the number of registrants reporting qualifications and employment in selected skills and occupations and their marital status, dependents, race, and age. This is practically completed for the 8,000,000 group 3 registrants, and it is expected to be finished for the remaining groups by January 1, 1943.

Mr. President, I especially invite the attention of the Senator from Florida to the record of the Selective Service Sys-

tem with respect to the particular function which the Census Bureau has been performing for the Selective Service System, and at its expense.

I continue to quote from the record:

This is practically completed—

That is, slotting into categories the information taken from Form 311—

for the 8,000,000 group 3 registrants, and it is expected to be finished for the remaining groups by January 1, 1943.

That statement should reassure the Senator from Florida that under the management of our organization, the Selective Service System, there is no idea of postponing the work until June 1943.

Mr. PEPPER. Mr. President, will the Senator enlighten me a little further as to how comprehensive is the inquiry being made by the Bureau of the Census under the direction of the Selective Service authorities?

Mr. AUSTIN. I shall do so if the Senator will withhold his request until I can finish the reading. Thereupon, I shall turn to one of the actual tabulations and shall point it out. For example, 190 categories of employment are covered.

I now resume the reading:

Upon the completion of the tabulation of these basic occupational data, the classification information on each registrant from form 110 will be placed upon the punch card for form 311 and tabulations of skills and professional qualifications and other characteristics of registrants tabulated for current classification by local board and State and for the country as a whole. This will be utilized in controlling the local board processing of registrants with respect to occupation.

If it becomes necessary, each local board can be supplied with the serial numbers of uninducted registrants possessing specific occupations and other specific qualifications for meeting special industrial or military manpower calls.

In the event that the problems of planning, administering, or special calls require it, the occupational qualifications or other characteristics of registrants can be brought up to date through the medium of form 110 or sample studies which are now in operation between local boards and national headquarters.

That is the end of what I wanted to read. Let me comment that the continuous keeping up to date of the story of the individual is now done all the time in practice by the local board, and if we are to turn the job over to some other bureau, another agency will be set up to repeat, duplicate, and do the same thing over again.

I promised the distinguished junior Senator from Florida that I would show an actual exhibit of information. I hold in my hand an interoffice communication covering such an exhibit. The communication was given to me this morning at my request. It is headed "National Headquarters, Selective Service System." I emphasize that because the organization preparing the document is not the War Manpower Commission.

INTEROFFICE MEMORANDUM

OCTOBER 16, 1942.

To: Colonel Keesling.
From: Mr. McGill.
Subject: Data from Form 311.

That is exactly what the Senator asked about.

The following are items of occupational information which national headquarters is now making available from its Coupon of the Occupational Questionnaire to all of the agencies now concerned with military, industrial, and total manpower problems:

1. Hand count totals on the number of Group 3 and Group 4 registrants reporting qualifications in a selected occupation and employment at this occupation by selected occupation, State, and industrial area. (See exhibit A.)

2. Tabulations of similar information for all registrants by marital status, dependents, age, race, etc. (Exhibit B.)

I do not have exhibit B and do not intend to put it into the RECORD. I will put exhibit A in because that answers the question of the Senator from Florida in detail.

Below are given items of occupational information which it is planned to make available to these agencies if the need arises:

1. Tabulations on the selected occupations, marital status, dependents, age, and race of all registrants by current selective service classification and by State and local board.

2. Listings of all registrants by serial number according to their selected occupation, marital status, dependents, age, race, and current selective service classification by State and local board.

Then comes exhibit A, which, on second thought, I will not weary the Senate by reading, but I will point out the evidentiary significance of it on the question before us, and that is that it is not a document of the War Manpower Commission but is a document of the Selective Service, and it starts right off:

NATIONAL HEADQUARTERS, SELECTIVE SERVICE SYSTEM, WASHINGTON, D. C.

Selective service registrants of the Third Registration reporting qualifications and present employment in 190 selected occupations. (Preliminary.)

Then follows a narrative, and then the tabulation, which, Mr. President, I ask unanimous consent to have printed in the RECORD without reading.

The VICE PRESIDENT. Without objection, it is so ordered.

There was no objection.

The tabulation is as follows:

Selective Service registrants of the third registration reporting qualifications and present employment in 190 selected occupations (preliminary)

NEVADA: APRIL–JUNE 1942

	Total reporting	Reporting present employment	Reporting qualifications but not present employment
Total	9,147	------	------
Reporting no selected occupation	2,764	------	------
Reporting selected occupation	6,383	1,959	4,424
Airplane fabric worker	5	1	4
Airplane mechanic	20	5	15
Airplane pilot	38	4	34
Airplane woodworker	------	------	------
Airport-control operator	3	1	2
Angle puncher and shearer	3	2	1
Architect	7	3	4
Armorer	------	------	------
Asbestos worker	1	------	1
Assembler:			
Aircraft	2	1	1
Electrical equipment	4	------	4
Instrument	------	------	------
Machinery	7	1	6
Other	8	2	6

Selective Service registrants of the third registration reporting qualifications and present employment in 190 selected occupations (preliminary)—Continued

	Total reporting	Reporting present employment	Reporting qualifications but not present employment
Automobile mechanic	359	87	272
Babbitter	16	------	16
Bench hand, metal work	7	------	7
Bessemer-converter blower	1	------	1
Blacksmith	48	15	33
Blaster	13	2	11
Blast-furnace operator	1	------	1
Boatbuilder, wood or steel	1	------	1
Boiler mechanic	32	15	17
Boring-machine operator, metal	2	------	2
Boring-mill operator	2	1	1
Bricklayer	26	11	15
Burner, acetylene	29	7	22
Cabinetmaker	21	6	15
Cable splicer	9	1	8
Calker, steel plate	1	------	1
Canvas worker	3	2	1
Carman, railroad shops	61	23	38
Carpenter	412	138	274
Cement finisher	60	15	45
Chemical operator	23	8	15
Chipper, metal	3	------	3
Cloth cutter	------	------	------
Compass man, logging	4	------	4
Cooper	------	------	------
Coremaker	5	2	3
Crane operator	51	14	37
Detailer, drafting	4	2	2
Die maker	1	1	------
Designer:			
Airplane	------	------	------
Tool, die, machinery	4	2	2
Diver	11	2	9
Draftsman	44	11	33
Dredgeman	4	------	4
Drill-press operator	23	3	20
Dynamic balancer	------	------	------
Electrician	193	72	121
Electric motor repairman	8	------	8
Emergency man, street railway	2	------	2
Emergency squad worker, fire or gas company	2	------	2
Engineer:			
Locomotive	68	42	26
Operating	70	32	38
Professional	62	22	40
Refrigerating	17	3	14
Stationary	52	14	38
Engraver	------	------	------
Estimator construction	18	6	12
Explosives operator	26	3	23
Farmer:			
Dairy	214	43	171
Other	737	195	542
Farm hand:			
Dairy	72	14	58
Other	598	135	463
Farm machinery repairman	29	5	24
Filer, metal	5	2	3
Filtration plant attendant (water)	5	2	3
Fingerprint expert	6	1	5
Finisher:			
Rolling mill	------	------	------
Watch manufacturing	------	------	------
Fire fighter	50	16	34
Fireman, locomotive	103	35	68
First-aid attendant	23	2	21
Fixer, machine	6	3	3
Foreman, factory	34	12	22
Forger	------	------	------
Forge welder	------	------	------
Flanging press operator	------	------	------
Furnace charger, metal	5	4	1
Galvanizer, iron and steel	1	1	------
Gas-producer man	------	------	------
Gear cutter	------	------	------
Glass blower	------	------	------
Glazier	4	1	3
Grinder, precision work	1	------	1
Grooving-machine operator	------	------	------
Gunsmith	3	2	1
Hammersmith	------	------	------
Hardener	------	------	------
Heat treater	1	------	1
Heater, forge	2	------	2
Hostler, railroad	14	4	10
Inspector	36	19	17
Inspector, machinery parts	1	------	1
Instrument maker	1	1	------
Instrument repairman	2	1	1
Internal key-seating machine operator	------	------	------
Interpreter	23	3	20
Keller-machine operator	------	------	------
Lapping-machine operator	------	------	------
Lathe operator	24	3	21
Lay-out man	9	4	5

Selective Service registrants of the third registration reporting qualifications and present employment in 190 selected occupations (preliminary)—Continued

	Total reporting	Reporting present employment	Reporting qualifications but not present employment
Lead burner	3	1	2
Leather worker	10	2	8
Lens grinder	4	3	1
Linemen	36	14	22
Loftsman	1	----	1
Loom fixer	----	----	----
Lumber grader	14	5	9
Machine operator, firearms	2	2	----
Machine set-up man	2	----	2
Machinist	134	68	66
Maintenance mechanic	99	43	56
Melter	6	3	3
Metallurgist	16	7	9
Milling-machine operator	28	7	21
Millwright	16	3	13
Miner	710	238	472
Model maker	3	1	2
Molder	12	2	10
Motor analyst	8	3	5
Motorcycle repairman	1	----	1
Motorman, locomotive	12	4	8
Multipurpose-machine operator, metal working	1	----	1
Nurse, registered	4	2	2
Optician	3	----	3
Ornamental-iron worker	2	----	2
Ordnanceman	19	11	8
Painter, ship	55	13	42
Parachute repairer	3	----	3
Patternmaker	3	1	2
Personnel man	106	33	73
Pipe fitter	73	12	61
Pipe man, water or gas main	32	11	21
Planer operator, metal	----	----	----
Plasterer	22	8	14
Plater	1	----	1
Plumber	66	19	47
Policeman	68	33	35
Pourer, foundry	1	----	1
Powerhouse operator	46	20	26
Power shovel operator	51	23	28
Press operator	10	4	6
Press operator, metal	3	----	3
Printer	36	12	24
Profiling-machine operator	1	----	1
Pulpit man, steel mill	----	----	----
Radio operator	26	4	22
Radio repairman	18	7	11
Repairman			
Office machines	11	6	5
Railroad equipment	41	20	21
Rigger	31	10	21
Riveter	12	----	12
Roller, metal	----	----	----
Sawing machine operator, metal	2	----	2
Scarver	----	----	----
Screw machiner operator	4	----	4
Seaman (including river boats)	26	2	24
Shaper operator, metal	2	1	1
Sheet-metal fabricating machine operator	1	----	1
Sheet-metal worker	35	11	24
Ship fitter	5	----	5
Ship's officer or engineer	5	----	5
Steam fitter	11	3	8
Stonemason	9	1	8
Straightener, metal	6	2	4
Structural-steel worker	23	11	12
Surveyor, engineering	78	20	58
Telegraph operator	57	24	33
Telephone man	34	11	23
Template maker	----	----	----
Tester	7	1	6
Textile-machine operator	----	----	----
Thread grinder	----	----	----
Tool dresser	6	2	4
Tool-grinder operator	1	----	1
Tool maker	----	----	----
Tracer, drafting	3	----	3
Trainman	150	72	78
Transformer rebuilder	----	----	----
Tube bender	----	----	----
Upholsterer	11	4	7
Watchmaker	9	5	4
Weaver	2	----	2
Welder	100	37	63
Wheel borer	----	----	----
Wire drawer	1	1	----
Woodworking machine operator	27	6	21

Selective Service System, July 31, 1942.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. AUSTIN. I yield.

Mr. McKELLAR. Then, as I understand the Senator, the $5,000,000 included in this item will go to the Selective Service System to be used in completing the work in question?

Mr. AUSTIN. That is just the statement I want; but the bill does not so state; the testimony is not clear about it. Let me read what General Hershey testified to as bearing upon the theory which supports what the Selective Service is now doing, to which I have already called attention. I read from page 474 of the hearings before the House committee. It is not long and it is the whole testimony of General Hershey. It is as follows:

The CHAIRMAN. General Hershey, we should be pleased to have a statement from you on this question of manpower.

General HERSHEY. Mr. Chairman, I come here in two capacities. First, I am a Commissioner of the Manpower Commission; and also the Director of the Selective Service System. As a Commissioner, I am interested in knowing what we have got in this country. We may have something over 60,000,000 or 65,000,000 working units.

That is very important, and if this money will ascertain that information, it will prove the necessity on the part of Congress to do something extremely important and effective to meet the requirements of an army of 7,500,000 men. If it be assumed that the information given to us through the Military Affairs Committee of the Senate is true, that it takes from 15 to 18 civilians in production and in our industries to sustain properly 1 man on the field of battle; 15 times 7,500,000 is one hundred and twelve and a half million, and, if it be true that we have only between 60,000,000 and 65,000,000 working units to perform the service of 112,000,000 units, we face a serious problem.

Excuse me for departing from the reading. I continue to the quotation from General Hershey's testimony:

We have already in our possession material on some thirty-nine to forty-three million of those people.

Our agency has acted to reduce that to writing on a Form No. 311—

That as will be noted, is the same old form—

so that we have that very information. The thing that we are up here for this morning is to try to make that information available, not only nationally but available down in the localities—

The information must be made available—

so that when you are looking for a carpenter or a plumber or a die-setter or something else, you know that man in terms of his name and his street address.

Secondly, as the Director of the Selective Service System, I am interested in the United States Employment Service not only nationally, but locally, in being able to tell whether this man is a die-setter or what is this fellow—

The selection is always by individuals; the law prohibits any other type of selection—

see what he claims to be and whether you need him. Otherwise my boards cannot make an intelligent approach to the problem. I believe that is all, Mr. Chairman.

The CHAIRMAN. Thank you, General Hershey.

Mr. President if it be true—and I am ready to accept the statement of the distinguished Senator from Tennessee—that this appropriation of $5,000,000 is to go to the Selective Service System for carrying on the work so well started, it has all my support. The main thing I want Congress to do is to adhere to this democratic process of dealing with the most vital things affecting the people of this country at a time when they have all volunteered, for all the people of this country who are physically and mentally able to do so are in this war; have no doubt about that. I know, from my recent trips into the country, how deeply they feel, how great is their zeal, how willing they are to sacrifice, all they want is leadership, all they want is direction; and, with it, I assure the Senate that they will go further than we will go.

What I am standing for here, and intend to fight for in the coming few weeks, is to hold up the arms of this agency which we created—we, the people, for that is what we are; we represent the people of this country. When we set up a Selective Service Board, with all its local agencies, we did the one precious thing which afforded to the people the confidence and the certainty that the judgments upon their lives which were being made were without the smell of brimstone and were free from any shade or color of politics or any financial or other interest save the interest of our country. That is what I am for, and that is why I entered into the debate yesterday.

Mr. PEPPER. Mr. President, will the Senator yield?

Mr. AUSTIN. I yield.

Mr. PEPPER. I wonder if the able Senator means to say to the Senate, however, that he thinks an Army officer, or an agency the personnel of which is exclusively Army personnel, should be the national agency to determine matters of civilian allocation and occupation, as well as military.

Mr. AUSTIN. That is a very fair question, and an excellent question to consider now. My answer is, No, and when we passed the selective service law, we recognized that. I could turn to the place if I had a moment, but in the act itself we prohibited anyone connected with the Army or Navy serving on the local boards. Mind you, Mr. President, the local boards do the deciding. It is not General Hershey, or anyone else here at national headquarters. Because we believed in the principle to which the Senator from Florida now appeals, we set up that system of due process of law with which we, as Americans, have grown up. We had the first board, the first fact-finding body, a body of our own folks, and we excluded the military from it completely. Then we said, "Now, men are fallible; the infallible man has not been born, so we will provide another bit of home rule; we will create an appeal board, and then we will go still further, we will create other appeal agencies as they may be necessary, and they will also be made up of local people; they will be our own neighbors, in our own States."

Of course, the President is always at the top of any war organization, and he is at the top of the one we are now dis-

cussing, and, if it were necessary, an appeal could be made to the President of the United States. But we have set up an institution which we think is so necessary for the maintenance of justice between Government and its population; namely, a local fact-finding body, and appeal organizations which are free from any other interest except the public interest.

Mr. PEPPER. Mr. President, will the Senator yield again?

Mr. AUSTIN. I yield.

Mr. PEPPER. The able Senator has emphasized the virtue of that system, and undoubtedly pointed out, as he should have done, the fairness of it in dealing with different individuals. My question to the Senator was upon the assumption that the determination of the allocation of our citizens between military and civil needs, including industry and agriculture, of necessity must be made by the National Government. If that be true, then I was asking the Senator whether he would also entrust the decision of that matter of national policy in the allocation of the Nation's manpower purely to a military tribunal.

Mr. AUSTIN. No.

Mr. PEPPER. If the Senator will permit me to complete the question—for example, in a hearing before our Committee on Education and Labor two witnesses appeared. One of them was a contractor, representing a national association engaged in the building of airfields and cantonments, distinctly military establishments. He pointed out the case of a keyman in his organization, who was 34 years of age and single, who had once been deferred by the local draft board, and who was asking for deferment a second time. The mothers and fathers in the community were pointing to that man and saying, "Why was that man left behind when my boy had to go to war?" Thereupon, without any directive from Washington, in spite of the fact that it had a letter and telegram from the United States Engineer Corps requesting that it defer this man because he was essential in the establishment of military training bases, the draft board took the man and sent him into the service.

Let me give one further example. A gentleman named Rodgers appeared here from the Great Nordberg Co. in Milwaukee. That company among other things is manufacturing naval torpedo tubes, and motors which go into merchant ships. He testified to almost similar circumstances, of a draft board being unable to differentiate between a man who was needed as a key man in industry and a man who ought to go into the military service. So I was led to conclude, from these and other cases which have come to my attention, that there must be a national policy in regard to the allocation of the Nation's manpower.

Therefore, I had meant to ask the able Senator, who has given so much thought to this subject, whether or not the making and the formation of a national policy regarding manpower should be left purely to a military tribunal, such as the Selective Service Board.

Mr. AUSTIN. Mr. President, I can answer that question, for I have a very firm conviction about it.

First, we can account for what happens by the absence of a statute which determines the national policy with respect to the maintenance of a proper balance between armed men and producing men. Sometime we will come to the question of maintaining a proper balance among producing men. But in the case of several bills on which hearings will begin tomorrow we are faced by the question of manpower, and the view to which I have referred was expressed in the bill which I have introduced. I am never so married to my own views that they are not subject to change upon consideration of the views of my colleagues.

Therefore I shall enter the hearing tomorrow with a quite open mind, and my judgment as to what I really believe in and fight for will be reserved until the end of the hearings.

My views are represented by the bill which I introduced. It provides that the President shall be authorized to determine the policy. That means, of course, that the President may make the determination through any board he chooses, but probably he would do so through his existing organization for war, consisting of the three joint Chiefs of Staff, the War Production Board, with Mr. Nelson at its head, and the Economic Stabilization Board, with Mr. Justice Byrnes at its head. That is the President's present and most modern war board. The great policies of distribution in order to maintain the balance of which I have spoken must be ascertained by them. Who else can determine the policies? Not the Selective Service System.

Mr. PEPPER. Did the able Senator from Vermont leave out Agriculture?

Mr. AUSTIN. No; that is, of course, included. I am not giving the subdivisions. I am trying to make the statement in a general way. However, the foundation of the whole theory is that the policies shall be settled by the joint action of all those who are interested in, concerned with, and have special knowledge of all the circumstances.

Under the system which I propose, the needs or demands for labor would be classified. The location and requirements would be established; so many men for shipbuilding, so many men for agriculture, and so forth. All of them would be classified according to a national or major plan, a dominating plan for the Nation, which would be handed down to the smallest locality in the Union in order to have it work. The local boards of the Selective Service System could then classify by census and arrange the data so that the authorities could refer to them at once and say, in my town, for instance, "There are John Doe and Richard Roe who can do a certain type of work, which is special, which is important."

Alongside this will go the distribution of the requisitions. According to the major and dominating plan for war to which I have referred, the officials may say to the local board, "We want so many men in your community to perform this work. You get credit for it on your quota."

That is my idea, stating it in a rather imperfect manner. It is a general, overall plan, so well coordinated that it would operate. When it comes to taking my boy and telling him what he ought to do for his country, I want it done by his own folks, his own neighbors. When they say to him, "Son, however much you may want to go into the trenches or into the sky, you can do more for your country if you will stay right here and work in town," the boy will accept it because it is the law of his land, it is the policy of his people, the sentiment of his own neighborhood, and he will not feel as though he were going around wearing a white feather. He will know that he is a part of this total war to save this great country and its principles.

Mr. PEPPER. Mr. President, will the Senator further yield?

The PRESIDING OFFICER (Mr. SPENCER in the chair). Does the Senator from Vermont yield to the Senator from Florida?

Mr. AUSTIN. I yield.

Mr. PEPPER. The Senator has very ably stated the inevitable principles which, it seems to me, must be put into this legislation. The only question I desire to ask is this: In the accumulation of the data relating to all our people who might constitute a source of manpower for the Army, industry, agriculture, or transportation, does not the Senator believe it would be wise to allow the President, or the Bureau of the Budget—preferably the President—if we are going to provide $5,000,000 for collecting this information, to select the agency which is best qualified to perform the work?

I have listened with a great deal of interest to what the able Senator has said about the work now being done by the Selective Service System in the procuring of these data and the use which is being made of the Census Bureau, but in view of the Director of the Census having just last week appeared before our subcommittee, and testifying to the limited nature of the inquiry being made, I am wondering if it might not be possible for us to allow the President at least to make the selection of the agency best qualified to gather the information. My own opinion is that in view of its comprehensive vision of the Nation its experience in obtaining of such data in the past, and considering its facilities, including its building in Washington, as well as the 1940 census material which it has at its finger tips, the Bureau of the Census is the best authority to be appointed to accumulate the data to which the Senator has referred. I was wondering whether, if this item is made to apply to the Selective Service, the Senator would not be willing to allow it to be subject to allocation by the President to the agency best qualified to procure and prepare the information.

Mr. AUSTIN. I have no fear of what the President of the United States might do in such circumstances. I have great faith in his leadership as Commander in Chief in this war, so my answer is

not at all colored by any question in that regard.

I do not think it is necessary to change to some other control during the process of collecting the data. My point is that the policy-making organization exists with the President at its head. The data-gathering organization exists and has performed this work to date. It is our agency, it is the local agency.

I do not want to disturb that arrangement. If the Census Bureau is doing any part of the work, let them continue to do it for the Selective Service System. But they are not needed to go forth and investigate.

We have an over-all inventory which the boys have made themselves by answering questions, and of course they were answered under the penalty of a law which provided a fine of $10,000 or imprisonment for false statements. But I understand that this appropriation contemplates the making of a further and more explicit investigation, going around and interviewing the boys. If the distinguished Senator from Tennessee has struck the right note here by saying that it is really the Selective Service System which is going to do this work, I say amen. All I want to do is save it. I do not want it broken down; I do not want it interrupted. I want it to go on with this work. It has had all these cards made out. They belong to the Selective Service System. What is the use of taking them away and transferring them to another bureau?

Mr. PEPPER. Mr. President, will the Senator yield?

Mr. AUSTIN. I yield.

Mr. PEPPER. If these data are required only from those registered under the selective service, it would be one thing, but the manpower problem is much greater, and deals with the question of skills possessed by individuals, the marital status, the number of children, whether they are dependent or not, and must include information respecting women.

Mr. AUSTIN. That is correct. I contemplate that. Before we get through with the manpower legislation I think we will comprehend women within it.

Mr. PEPPER. Mr. President, will the Senator yield to me?

Mr. AUSTIN. I yield.

Mr. PEPPER. The Director of the Census made it very clear in his testimony—and it was based upon an examination of census material—that the only available sources of manpower which are not now being employed, unless we begin to take persons who are now engaged in some occupations that later we might deem unessential, are composed of boys of high-school age, women from 20 to 44, and men above 55 years of age. He concluded his testimony with this very significant statement:

> Since practically all of the able-bodied men 18 years of age and over are already in the labor force (excluding the armed forces) and since the number of unemployed is rapidly approaching the irreducible minimum of frictional unemployment, it is clear that the 4,000,000 to 7,000,000 workers who must be added to the labor force to reach such a figure must be drawn mainly from women not now in the labor force, including married women with and without young children or other dependents. This obviously poses complex problems with respect to recruitment training, and placement.

That is the concluding portion of the statement of Mr. Capt, Director of the Bureau of the Census, before the subcommittee of the Committee on Education and Labor. I am in favor of acquiring this information and data, but we cannot formulate a national policy unless we have brought up to date the comprehensive census material of 1940. If it be desired to use the Selective Service System as a supervising agency for directing the Bureau of the Census, I have no objection whatever, but I do not want to stop short of getting all the material necessary for the formulation of a sound national manpower policy. If we are simply to have the information that comes in from the draft boards, we will not have information with respect to anyone below the draft age, and we will not have information with respect to anyone above 55 years of age, and all the women will be left out. If the women are to be an essential part of our labor force we must take them into consideration.

The next thing is with respect to getting data concerning the men since they registered. We do not get data with respect to those who registered in the first draft?

Mr. AUSTIN. Yes; they are all comprehended in this order.

Mr. PEPPER. But what I mean is that their records, which remain in the hands of the Selective Service System, are as old as the dates of registration.

Mr. AUSTIN. No; those records are kept up to date, unless the men are in the armed forces. If there have been changes in occupation of the registrants they are kept up to date.

Mr. PEPPER. As to where they are and what they are doing?

Mr. AUSTIN. Yes.

Mr. PEPPER. What I was getting at was bringing full knowledge of the character and distribution of the population to the attention of the Government as immediately as possible. The Bureau of the Census has made a request of the Director of the Budget for authority to undertake this census on an annual basis. It will not be quite so complete, Director Capt thought, as the 1940 census, but he said it would mean a house-to-house canvass, contact with every person in the United States. It would bring to the knowledge of the Government the very latest and most comprehensive data about our population, where it is, what it is doing, what its capacity is, and all that sort of thing, and he said it could be done with a field staff of 8,000, that all of them could be women, that it would not cost over four and a half million dollars; that the Census Bureau has the blueprints already prepared; that it could launch the program within 2 months, and complete it, once it was begun, within 2 weeks. If the Selective Service System is to do it, let us authorize them to have the Bureau of the Census compile complete data regarding our population.

Mr. AUSTIN. Mr. President, I am through. I wish to thank the Senator from Florida [Mr. PEPPER]. What he has last said is of great importance, and I did contemplate, before he spoke of it, the consideration of that idea in connection with the hearings on Senate bill 2805, which is my bill, and I shall be glad to have his help in the further consideration of it.

I wish to place in the RECORD one sentence to which I referred, but did not quote. This is not in the bill. It is in Public Law 360, which is the Selective Training and Service Act of 1940. I read from page 10, as follows:

> No member of any such local board shall be a member of the land or naval forces of the United States, but each member of any such local board shall be a civilian who is a citizen of the United States residing in the county or political subdivision corresponding thereto in which such local board has jurisdiction under rules and regulations prescribed by the President.

Mr. HAYDEN. Mr. President, on behalf of the committee I wish to state, so there may be no misunderstanding as to the purpose of this $5,000,000 appropriation, that there have been made out practically 40,000,000 questionnaires by people called in the selective service. Of that number, on the 15th of August 6,500,000 had been processed. Now approximately 8,000,000 have been processed. It is to carry on that processing in exactly the same way for the remaining number of questionnaires that this money is proposed to be appropriated.

Mr. AUSTIN. Mr. President, I promised the Senator from Florida to call attention to what was said in the Senate on December 18, 1941. I read a brief statement made by the Senator from Alabama [Mr. HILL], as follows:

> Mr. HILL. And the truth of the matter is that neither the Social Security Administration nor the Census Bureau has now in existence any organization similar to that possessed by the Selective Service Administration. The Selective Service Administration has its local boards in almost every town, city, and hamlet throughout the United States. Those boards have their employees and clerks available every day and are ready to do this job.

PERSONNEL OF THE COAST GUARD

The PRESIDING OFFICER (Mr. SPENCER in the chair) laid before the Senate the amendments of the House of Representatives to the bill (S. 2381) to provide that certain provisions of law relating to the Navy shall be held applicable to the personnel of the Coast Guard when that Service is operating as a part of the Navy, which were, in line 4, to strike out "Statutes" and insert "Statutes;"; in line 6, to strike out "622)," and insert "622);"; in line 7, to strike out "756)," and insert "756);"; in line 9, to strike out "1181)," and insert "1181);"; in line 10, to strike out "1274)," and insert "1274);"; and in line 11, to strike out "712)," and insert "712);".

Mr. WALSH. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

REVENUE ACT OF 1942—CONFERENCE REPORT

Mr. GEORGE. Mr. President, I wish to present and have considered the conference report on House bill 7378, the tax bill, but before taking it up I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Gerry	Pepper
Andrews	Gillette	Radcliffe
Austin	Green	Reed
Bailey	Guffey	Reynolds
Ball	Gurney	Rosier
Barbour	Hatch	Russell
Barkley	Hayden	Schwartz
Bilbo	Hill	Shipstead
Bone	Johnson, Calif.	Smathers
Brewster	Kilgore	Spencer
Bulow	La Follette	Thomas, Idaho
Bunker	Langer	Thomas, Okla.
Burton	Lee	Thomas, Utah
Butler	McFarland	Tobey
Capper	McKellar	Tunnell
Caraway	McNary	Tydings
Chandler	Maloney	Vandenberg
Chavez	Maybank	Van Nuys
Connally	Mead	Wagner
Danaher	Murdock	Wallgren
Davis	Norris	Walsh
Downey	Nye	Wheeler
Doxey	O'Daniel	Wiley
Ellender	O'Mahoney	Willis
George	Overton	

The PRESIDING OFFICER. Seventy-four Senators have answered to their names. A quorum is present.

Mr. GEORGE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7378) to provide revenue, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 76, 114, 216, 243, 387, 388, 389, 392, 400, 407, 414, 415, 432, 436, 461, 484, 492, and 501.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 72, 73, 74, 75, 79, 80, 82, 84, 85, 87, 89, 90, 91, 94, 95, 96, 97, 98, 99, 100, 101, 102, 108, 109, 113, 118, 119, 120, 121, 122, 123, 126, 128, 129, 132, 133, 134, 135, 136, 138, 139, 140, 141, 142, 143, 144, 145, 146, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 162, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 180, 182, 183, 184, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 198, 199, 200, 201, 202, 207, 209, 210, 211, 212, 213, 214, 218, 222, 223, 225, 226, 227, 228, 229, 230, 231, 232, 233, 235, 236, 237, 238, 239, 240, 241, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 292, 293, 294, 295, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 390, 393, 394, 395, 396, 397, 398, 401, 403, 404, 405, 406, 408, 409, 410, 411, 412, 413, 416, 417, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 433, 434, 437, 439, 440, 441, 442, 443, 444, 445, 446, 447, 450, 451, 452, 453, 454, 455, 456, 457, 458, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 475, 476, 477, 478, 479, 480, 481, 482, 483, 485, 486, 487, 488, 489, 490, 491, 493, 494, 495, 496, and 502, and agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "$385"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"In the case of any corporation computing such tax under section 721 (relating to abnormalities in income in the taxable period), section 726 (relating to corporations completing contracts under the Merchant Marine Act of 1936), section 731 (relating to corporations engaged in mining strategic minerals), or section 736 (b) (relating to corporations with income from long-term contracts), the credit shall be the amount of which the tax imposed by such subchapter is 90 per centum. For the purpose of the preceding sentence, the term 'tax imposed by subchapter E of chapter 2' means the tax computed without regard to the limitation provided in section 710 (a) (1) (B) (the 80 per centum limitation), without regard to the credit provided in section 729 (c) and (d) for foreign taxes paid, and without regard to the adjustments provided in section 734."

And the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: Omit the matter proposed to be inserted by the Senate amendment, and restore the matter proposed to be stricken out by the Senate, and on page 21, line 18, of the House bill strike out "111" and insert "112"; and the Senate agree to the same.

Amendment numbered 46: That the House recede from its disagreement to the amendment of the Senate numbered 46, and agree to the same with an amendment, as follows: On page 19, line 19, of the Senate engrossed amendments, after "deficiency", insert "but without interest"; and on page 21, line 13, of the Senate engrossed amendments, after "liquidation", insert "or replacement"; and the Senate agree to the same.

Amendment numbered 70: That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "169"; and the Senate agree to the same.

Amendment numbered 71: That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows: On page 29, line 21, of the Senate engrossed amendments, after "children" insert "(but in the case of contributions or gifts to a trust, chest, fund, or foundation, payment of which is made within a taxable year beginning after the date of the cessation of hostilities in the present war, as proclaimed by the President, only if such contributions or gifts are to be used within the United States or any of its possessions exclusively for such purposes)."

And the Senate agree to the same.

Amendment numbered 77: That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows: On page 33, line 18, of the Senate engrossed amendments strike out "129" and insert "128"; and the Senate agree to the same.

Amendment numbered 78: That the House recede from its disagreement to the amendment of the Senate numbered 78, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "129"; and the Senate agree to the same.

Amendment numbered 81: That the House recede from its disagreement to the amendment of the Senate numbered 81, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "130"; and the Senate agree to the same.

Amendment numbered 83: That the House recede from its disagreement to the amendment of the Senate numbered 83, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "131"; and the Senate agree to the same.

Amendment numbered 86: That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "$350"; and the Senate agree to the same.

Amendment numbered 88: That the House recede from its disagreement to the amendment of the Senate numbered 88, and agree to the same with an amendment, as follows: On page 37, line 21, of the Senate engrossed amendments strike out "$300" and insert the following: "132"; and the Senate agree to the same.

Amendment numbered 92: That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 133. Credit for dividends paid on certain preferred stock.

"Section 26 is amended by inserting at the end thereof the following new subsection:

"'(h) Credit for dividends paid on certain preferred stock.—

"'(1) Amount of credit: In the case of a public utility, the amount of dividends paid during the taxable year on its preferred stock. The credit provided in this subsection shall be subtracted from the basic surtax credit provided in section 27.

"'(2) Definitions: As used in this subsection and section 15 (a)—

"'(A) Public utility: The term "public utility" means a corporation engaged in the furnishing of telephone service or in the sale of electric energy, gas, or water, if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof or by an agency or instrumentality of the United States or by a public utility or public service commission or other similar body of the District of Columbia or of any State or political subdivision thereof.

"'(B) Preferred stock: The term "preferred stock" means stock issued prior to October 1, 1942, which during the whole of the taxable year (or the part of the taxable year after its issue) was stock the dividends in respect of which were cumulative, limited to the same amount, and payable in preference to the payment of dividends on other stock.'"

And the Senate agree to the same.

Amendment numbered 93: That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows: In lieu of the matter proposed to

be inserted by the Senate amendment insert the following: "134"; and the Senate agree to the same.

Amendment numbered 103: That the House recede from its disagreement to the amendment of the Senate numbered 103, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "135"; and the Senate agree to the same.

Amendment numbered 104: That the House recede from its disagreement to the amendment of the Senate numbered 104, and agree to the same with an amendment, as follows: On page 41, line 9, of the Senate engrossed amendments strike out "137" and insert "136"; and the Senate agree to the same.

Amendment numbered 105: That the House recede from its disagreement to the amendment of the Senate numbered 105, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 137. Exemption of voluntary employees' beneficiary associations.

"(a) Exemption of Voluntary Employees' Beneficiary Association: Section 101 (16) of the Internal Revenue Code, and of the Revenue Acts of 1938, 1936, and 1934, and section 103 (16) of the Revenue Acts of 1932 and 1928, are amended to read as follows:

"'(16) Voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to the members of such association or their dependents, if (A) no part of their net earnings inures (other than through such payments) to the benefit of any private shareholder or individual, and (B) 85 per centum or more of the income consists of amounts collected from members and amounts contributed to the association by the employer of the members for the sole purpose of making such payments and meeting expenses'."

"(b) Retroactive effect: For the purposes of the Internal Revenue Code and the Revenue Acts of 1928, 1932, 1934, 1936, and 1938, the amendments made to the Internal Revenue Code and those Acts by subsection (a) of this section shall be effective as if they were a part of the Internal Revenue Code and such revenue Acts on the respective dates of their enactment.

"(c) Amendments inapplicable to employment taxes: The amendments made by this section shall not apply to the employment taxes imposed by Subchapters A and C of Chapter 9 of the Internal Revenue Code, or the corresponding provisions of a prior law."

And the Senate agree to the same.

Amendment numbered 106: That the House recede from its disagreement to the amendment of the Senate numbered 106, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "138"; and the Senate agree to the same.

Amendment numbered 107: That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "139"; and the Senate agree to the same.

Amendment numbered 110: That the House recede from its disagreement to the amendment of the Senate numbered 110, and agree to the same with the following amendments:

On page 47, line 18, of the Senate engrossed amendments strike out "141" and insert "140";

On page 48 of the Senate engrossed amendments beginning with line 10 strike out down to and including the comma in line 13, and insert "(B) that portion of a tentative tax, computed as if the amendments made by section 105 (a) and the amendments made by sections 105 (b) (other than those relating to dividends on the preferred stock of public utilities) (c), (d), and (e) (1) of the Revenue Act of 1942 were applicable to such taxable year."

And the Senate agree to the same.

Amendment numbered 111: That the House recede from its disagreement to the amendment of the Senate numbered 111, and agree to the same with an amendment, as follows: On page 49, line 16, of the Senate engrossed amendments strike out "142" and insert "141"; and the Senate agree to the same.

Amendment numbered 112: That the House recede from its disagreement to the amendment of the Senate numbered 112, and agree to the same with an amendment, as follows: On page 50, line 13, of the Senate engrossed amendments strike out "143" and insert "142"; and the Senate agree to the same.

Amendment numbered 115: That the House recede from its disagreement to the amendment of the Senate numbered 115, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "143"; and the Senate agree to the same.

Amendment numbered 116: That the House recede from its disagreement to the amendment of the Senate numbered 116, and agree to the same with an amendment, as follows: On page 59, line 3, of the Senate engrossed amendments strike out "146" and insert "144"; and the Senate agree to the same.

Amendment numbered 117: That the House recede from its disagreement to the amendment of the Senate numbered 117, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "145"; and the Senate agree to the same.

Amendment numbered 124: That the House recede from its disagreement to the amendment of the Senate numbered 124, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "146"; and the Senate agree to the same.

Amendment numbered 125: That the House recede from its disagreement to the amendment of the Senate numbered 125, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "147"; and the Senate agree to the same.

Amendment numbered 127: That the House recede from its disagreement to the amendment of the Senate numbered 127, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "148"; and the Senate agree to the same.

Amendment numbered 130: That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "149"; and the Senate agree to the same.

Amendment numbered 131: That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "150"; and the Senate agree to the same.

Amendment numbered 137: That the House recede from its disagreement to the amendment of the Senate numbered 137, and agree to the same with an amendment, as follows: On page 83, line 15, of the House bill strike out "201,"; and the Senate agree to the same.

Amendment numbered 147: That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "151"; and the Senate agree to the same.

Amendment numbered 159: That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "152"; and the Senate agree to the same.

Amendment numbered 160: That the House recede from its disagreement to the amendment of the Senate numbered 160, and agree to the same with an amendment, as follows: On page 66, line 12, of the Senate engrossed amendments strike out "155" and insert "153"; and the Senate agree to the same.

Amendment numbered 161: That the House recede from its disagreement to the amendment of the Senate numbered 161, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "154"; and the Senate agree to the same.

Amendment numbered 163: That the House recede from its disagreement to the amendment of the Senate numbered 163, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "155"; and the Senate agree to the same.

Amendment numbered 178: That the House recede from its disagreement to the amendment of the Senate numbered 178, and agree to the same with the following amendments: On page 72, line 2, of the Senate engrossed amendments strike out "158" and insert "156."

On page 74, line 21, of the Senate engrossed amendments after the period insert "Under regulations prescribed by the Commissioner with the approval of the Secretary, a taxpayer which owns 100 per centum (excluding qualifying shares) of each class of stock of a corporation may elect to determine the worthlessness of its interest, described in this paragraph, in or with respect to the property of the corporation, without regard to the amount of the property of such corporation which would be excluded under subsection (e) (2) (A) in determining the adjusted basis of all the assets of the corporation for the purposes of subsection (e), but such amount shall be treated under subsection (b) (1) as a recovery by the taxpayer in the taxable year with respect to such interest."

On page 80, line 6, of the Senate engrossed amendments after "owns" insert "not less than."

On page 80, line 12, of the Senate engrossed amendments after "liquidates" insert "(by distributing all the assets which it is able to distribute and all its rights to assets which it is not able to distribute, including the right to the recovery of the property described in subsection (a) (1) and (2))."

On page 80, line 21, of the Senate engrossed amendments after "stock" insert "or other interest."

On page 80, line 22, of the Senate engrossed amendments after "stock" insert "or other interest."

And the Senate agree to the same.

Amendment numbered 179: That the House recede from its disagreement to the amendment of the Senate numbered 179, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 157. Recovery of unconstitutional Federal taxes.

"(a) In general: Chapter 1 of the Internal Revenue Code is amended by inserting after section 127 the following new section:

"'SEC. 128. Recovery of unconstitutional Federal taxes.

"'Income (excluding interest) attributable to the recovery during the taxable year of a tax imposed by the United States which has

been held unconstitutional, and in respect of which a deduction was allowed in a prior taxable year may be excluded from gross income for the taxable year, and the deduction allowed in respect thereof in such prior taxable year treated as not having been allowable, if—

"'(a) The taxpayer elects in writing (at such time and in such manner as may be prescribed by regulations prescribed by the Commissioner with the approval of the Secretary) to treat such deduction as not having been allowable for such prior taxable year, and

"'(b) The taxpayer consents in writing to the assessment, within such period as may be agreed upon, of any deficiencies resulting from such treatment, even though the statutory period for the assessment of any such deficiency had expired prior to the filing of such consent.'

"(b) Taxable years to which applicable: The amendment made by subsection (a) shall be applicable with respect to taxable years beginning after December 31, 1940."

And the Senate agree to the same.

Amendment numbered 181: That the House recede from its disagreement to the amendment of the Senate numbered 181, and agree to the same with an amendment, as follows: On page 83, line 18, of the Senate engrossed amendments strike out "160" and insert "158"; and the Senate agree to the same.

Amendment numbered 185: That the House recede from its disagreement to the amendment of the Senate numbered 185, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "159"; and the Senate agree to the same.

Amendment numbered 197: That the House recede from its disagreement to the amendment of the Senate numbered 197, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "160"; and the Senate agree to the same.

Amendment numbered 203: That the House recede from its disagreement to the amendment of the Senate numbered 203, and agree to the same with an amendment, as follows: On page 89, line 13, of the Senate engrossed amendments strike out "'163" and insert "161"; and the Senate agree to the same.

Amendment numbered 204: That the House recede from its disagreement to the amendment of the Senate numbered 204, and agree to the same with the following amendments:

On page 90, line 15, of the Senate engrossed amendments strike out "164" and insert "162."

On page 95, line 16, of the Senate engrossed amendments strike out "both the".

On page 95, line 22, of the Senate engrossed amendments strike out "both".

On page 98, lines 5 and 6, of the Senate engrossed amendments strike out "the persons who are made the beneficiaries of the contributions paid by the employer" and insert "all employees".

Beginning with line 16 of page 104 of the Senate engrossed amendments strike out down through and including line 17 on page 105.

And the Senate agree to the same.

Amendment numbered 205: That the House recede from its disagreement to the amendment of the Senate numbered 205, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "163"; and the Senate agree to the same.

Amendment numbered 206: That the House recede from its disagreement to the amendment of the Senate numbered 206, and agree to the same with the following amendments: On page 107, line 11, of the Senate engrossed amendments strike out "which has" and insert "the"; and on page 107, line 14, of the Senate engrossed amendments strike out "comprising" and insert "of which comprise"; and the Senate agree to the same.

Amendment numbered 208: That the House recede from its disagreement to the amendment of the Senate numbered 208, and agree to the same with an amendment, as follows: On page 115, line 9, of the Senate engrossed amendments strike out "166" and insert "164" and the Senate agree to the same.

Amendment numbered 215: That the House recede from its disagreement to the amendment of the Senate numbered 215 and agree to the same with the following amendments:

On page 118, line 8, of the Senate engrossed amendments strike out "167" and insert "165."

Strike out pages 119 and 120, and the first two lines of page 121, of the Senate engrossed amendments and insert in lieu thereof the following: "every mutual insurance company (other than a life or a marine insurance company and other than an interinsurer or reciprocal underwriter) a tax computed under paragraph (1) or paragraph (2) whichever is the greater and upon the income of every mutual insurance company (other than a life or a marine insurance company) which is an interinsurer or reciprocal underwriter, a tax computed under paragraph (3).

"'(1) If the corporation surtax net income is over $3,000 a tax computed as follows:

"'(A) Normal tax: A normal tax on the normal-tax net income, computed at the rates provided in section 13 or section 14 (b), or 30 per centum of the amount by which the normal-tax net income exceeds $3,000, whichever is the lesser; plus

"'(B) Surtax: A surtax on the corporation surtax net income, computed at the rates provided in section 15 (b), or 20 per centum of the amount by which the corporation surtax net income exceeds $3,000, whichever is the lesser.

"'(2) If for the taxable year the gross amount of income from interest, dividends, rents, and net premiums, minus dividends to policy holders, minus the interest which under section 22 (b) (4) is excluded from gross income, exceeds $75,000, a tax equal to the excess of—

"'(A) 1 per centum of the amounts so computed, or 2 per centum of the excess of the amount so computed over $75,000, whichever is the lesser, over

"'(B) the amount of the tax imposed under Subchapter E of Chapter 2.

"'(3) In the case of an interinsurer or reciprocal underwriter, if the corporation surtax net income is over $50,000 a tax computed as follows:

"'(A) Normal tax: A normal tax on the normal-tax net income, computed at the rates provided in section 13 or section 14 (b), or 48 per centum of the amount by which the normal-tax net income exceeds $50,000, whichever is the lesser; plus

"'(B) Surtax: A surtax on the corporation surtax net income, computed at the rates provided in section 15 (b), or 32 per centum of the amount by which the corporation surtax net income exceeds $50,000, whichever is the lesser.

"'(4) Gross amount received over $75,000 but less than $125,000: If the gross amount received during the taxable year from interest, dividends, rents, and premiums (including deposits and assessments) is over $75,000 but less than $125,000, the amount ascertained under paragraph (1), paragraph (2) (A), and paragraph (3) shall be an amount which bears the same proportion to the amount ascertained under such paragraph, computed without reference to this paragraph, as the excess over $75,000 of such gross amount received bears to $50,000.

"'(5) Foreign mutual insurance companies other than life or marine: In the case of a foreign mutual insurance company (other than a life or marine insurance company), the net income shall be the net income from sources within the United States and the gross amount of income from interest, dividends, rents, and net premiums shall be the amount of such income from sources within the United States.

"'(6) No United States insurance business: Foreign mutual insurance companies (other than a life or marine insurance company) not carrying on an insurance business within the United States shall not be taxable under this section but shall be taxable as other foreign corporations.'"

And on page 83, line 15, of the House bill after "207" insert "(a) (1) or (3)."

And the Senate agree to the same.

Amendment numbered 217: That the House recede from its disagreement to the amendment of the Senate numbered 217, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "166"; and the Senate agree to the same.

Amendment numbered 219: That the House recede from its disagreement to the amendment of the Senate numbered 219, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "167"; and the Senate agree to the same.

Amendment numbered 220: That the House recede from its disagreement to the amendment of the Senate numbered 220, and agree to the same with an amendment, as follows: On page 127, line 5, of the Senate engrossed amendments strike out "170" and insert "168"; and the Senate agree to the same.

Amendment numbered 221: That the House recede from its disagreement to the amendment of the Senate numbered 221, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "169"; and the Senate agree to the same.

Amendment numbered 224: That the House recede from its disagreement to the amendment of the Senate numbered 224, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "170"; and the Senate agree to the same.

Amendment numbered 234: That the House recede from its disagreement to the amendment of the Senate numbered 234, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "171"; and the Senate agree to the same.

Amendment numbered 242: That the House recede from its disagreement to the amendment of the Senate numbered 242, and agree to the same with the following amendments:

On page 133, line 19, of the Senate engrossed amendments strike out "174" and insert "172."

On page 134 of the Senate engrossed amendments, strike out lines 8 to 14, inclusive, and insert in lieu thereof the following:

"'(a) Definition: The term "victory tax net income" in the case of any taxable year means (except as provided in subsection (c)) the gross income for such year (not including gain from the sale or exchange of capital assets as defined in section 117, or interest allowed as a credit against net income under section 25 (a) (1) and (2), or amounts received as compensation for injury or sickness which are included in gross income by reason of the exception contained in section 22 (b) (5)) minus the sum of the following deductions:'

On page 138 of the Senate engrossed amendments, line 24, strike out "another"

and insert "one other person"; on page 142 of the Senate engrossed amendments, lines 19 and 23, strike out "(f)" and insert "(e)"; on page 143 of the Senate engrossed amendments, line 7, before "for services" insert "(other than fees paid to a public official)"; on page 144 of the Senate engrossed amendments, strike out lines 6 to 15, inclusive, and insert in lieu thereof the following:

"(d) Employee: The term 'employee' includes an officer, employee, or elected official of the United States, a State, Territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term 'employee' also includes an officer of a corporation."

On page 150 of the Senate engrossed amendments, strike out lines 1 to 6; on page 150 of the Senate engrossed amendments, lines 7 and 14, strike out "(e)" and "(f)" and insert "(d)" and "(e)", respectively; on page 151 of the Senate engrossed amendments, lines 1 and 7, strike out "(g)" and "(h)" and insert "(f)" and "(g)", respectively; on page 153 of the Senate engrossed amendments, line 15, after "section" insert "shall be in lieu of the return required to be furnished by the employer with respect to his employee under section 147 and"; on page 156 of the Senate engrossed amendments, line 18, strike out "(f)" and insert "(e)"; on page 157 of the Senate engrossed amendments, line 24, strike out "(g)" and insert "(f)"; and on page 158 of the Senate engrossed amendments, lines 12 and 15, strike out "(f)" and insert "(e)."

And the Senate agree to the same.

Amendment numbered 273: That the House recede from its disagreement to the amendment of the Senate numbered 273, and agree to the same with an amendment, as follows: Strike out the matter proposed to be stricken out by the Senate amendment and insert the following:

"(g) Specific exemption and returns of interinsurers and reciprocal underwriters:

"(1) Specific exemption: Section 710 (b) (1) is amended by inserting before the semicolon at the end thereof a comma and the following: 'and in the case of a mutual insurance company (other than life or marine) which is an interinsurer or reciprocal underwriter a specific exemption of $50,000.'

"(2) Returns: Section 729 (b) (2) is amended by inserting before the period at the end thereof the following: 'or, in the case of a mutual insurance company (other than life or marine) which is an interinsurer or reciprocal underwriter, is not greater than $50,000'."

And the Senate agree to the same.

Amendment numbered 290: That the House recede from its disagreement to the amendment of the Senate numbered 290, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 209. Nontaxable income from exempt excess output of mining and timber operations and from bonus income of mines, etc.

"(a) Income credit: Section 711 (a) (1) (relating to excess profits credit computed under income credit) is amended by inserting at the end thereof the following new subparagraph:

"'(I) Nontaxable income of certain industries with depletable resources: In the case of a producer of minerals, or a producer of logs or lumber from a timber block, as defined in section 735, there shall be excluded nontaxable income from exempt excess output of mines and timber blocks and nontaxable bonus income provided in section 735.'

"(b) Invested capital credit: Section 711 (a) (2) (relating to excess profits credit computed under invested capital credit) is amended by inserting at the end thereof the following new subparagraph:

"'(K) Nontaxable income of certain industries with depletable resources: In the case of a producer of minerals, or a producer of logs or lumber from a timber block, as defined in section 735, there shall be excluded nontaxable income from exempt excess output of mines and timber blocks and nontaxable bonus income provided in section 735.

"(c) Nontaxable income: Subchapter E of Chapter 2 is amended by inserting after section 734 the following new section:

"'SEC. 735. Nontaxable income from certain mining and timber operations.

"'(a) Definitions: For the purposes of this section, section 711 (a) (1) (I), and section 711 (a) (2) (K)—

"'(1) Producer: The term "producer" means a corporation which extracts minerals from a mineral property, or cuts logs from a timber block, in which an economic interest is owned by such corporation.

"'(2) Mineral unit: The term "mineral unit" means a unit of metal, coal, or nonmetallic substance in the minerals recovered from the operation of a mineral property.

"'(3) Timber unit: The term "timber unit" means a unit of timber recovered from the operation of a timber block.

"'(4) Excess output: The term "excess output" means the excess of the mineral units or the timber units for the taxable year over the normal output.

"'(5) Normal output: The term "normal output" means the average annual mineral units, or the average annual timber units, as the case may be, recovered in the taxable years beginning after December 31, 1935, and not beginning after December 31, 1939 (hereinafter called "base period"), of the person owning the mineral property of the timber block (whether or not the taxpayer). The average annual mineral units or timber units shall be computed by dividing the aggregate of such mineral units or timber units for the base period by the number of months for which the mineral property or the timber block was in operation during the base period and by multiplying the amount so ascertained by twelve. In any case in which the taxpayer establishes, under regulations prescribed by the Commissioner with the approval of the Secretary, that the operation of any mineral property or any timber block is normally prevented for a specified period each year by physical events outside the control of the taxpayer, the number of months during which such mineral property or timber block is regularly in operation during a taxable year shall be used in computing the average annual mineral units, or timber units, instead of twelve. Any mineral property, or any timber block, which was in operation for less than six months during the base period shall, for the purposes of this section, be deemed not to have been in operation during the base period.

"'(6) Mineral property: The term "mineral property" means a mineral deposit, the development and plant necessary for the extraction of the deposit, and so much of the surface of the land as is necessary for purposes of such extraction.

"'(7) Minerals: The term "minerals" means ores of the metals, coal, and such nonmetallic substances as abrasives, asbestos, asphaltum, barytes, borax, building stone, cement rock, clay, crushed stone, feldspar, fluorspar, fuller's earth, graphite, gravel, gypsum, limestone, magnesite, marl, mica, mineral pigments, peat, potash, precious stones, refractories, rock phosphate, salt, sand, silica, slate, soapstone, soda, sulphur, and talc.

"'(8) Timber block: The term "timber block" means an operation unit existing as of December 31, 1941, which includes all the taxpayer's timber which would logically go to a single given point of manufacture, but shall not include any operation unit acquired after December 31, 1941.

"'(9) Normal unit profit: The term "normal unit profit" means the average profit for the base period per mineral unit for such period, determined by dividing the net income with respect to minerals recovered from the mineral property (computed with the allowance for depletion computed in accordance with the basis for depletion applicable to the current taxable year) during the base period by the number of mineral units recovered from the mineral property during the base period.

"'(10) Estimated recoverable units: The term "estimated recoverable units" means the estimated number of units of metal, coal, or nonmetallic substances in the estimated recoverable minerals from the minerals property at the end of the taxable year plus the excess output for such year. All estimates shall be subject to the approval of the Commissioner, the determinations of whom, for the purposes of this section, shall be final and conclusive.

"'(11) Exempt excess output: The term "exempt excess output" for any taxable year means a number of units equal to the following percentages of the excess output for such year:

"'100 per centum if the excess output exceeds 50 per centum of the estimated recoverable units;

"'95 per centum if the excess output exceeds 33⅓ but not 50 per centum of the estimated recoverable units;

"'90 per centum if the excess output exceeds 25 but not 33⅓ per centum of the estimated recoverable units;

"'85 per centum of the excess output exceeds 20 but not 25 per centum of the estimated recoverable units;

"'80 per centum if the excess output exceeds 16⅔ but not 20 per centum of the estimated recoverable units;

"'60 per centum of the excess output exceeds 14⅔ but not 16⅔ per centum of the estimated recoverable units;

"'40 per centum if the excess output exceeds 12½ but not 14⅔ per centum of the estimated recoverable units;

"'30 per centum if the excess output exceeds 10 but not 12½ per centum of the estimated recoverable units;

"'20 per centum if the excess output exceeds 5 but not 10 per centum of the estimated recoverable units.

"'(12) Unit net income: The term "unit net income" means the amount ascertained by dividing the net income (computed with the allowance for depletion) from the coal or iron ore or the timber recovered from the coal mining property, iron mining property, or timber block, as the case may be, during the taxable year by the number of units of coal or iron ore, or timber, recovered from such property in such year.

"'(b) Nontaxable income from exempt excess output.—

"'(1) General rule: For any taxable year for which the excess output of mineral property which was in operation during the base period exceeds 5 per centum of the estimated recoverable units from such property, the nontaxable income from exempt excess output for such year shall be an amount equal to the exempt excess output for such year multiplied by the normal unit profit, but such amount shall not exceed the net income (computed with the allowance for depletion) attributable to the excess output for such year.

"'(2) Coal and iron mines: For any taxable year, the nontaxable income from exempt excess output of a coal mining or iron mining property which was in operation during the base period shall be an amount equal to the excess output of such property for such year multiplied by one-half of the unit net income from such property for such year, or an amount determined under paragraph (1),

whichever the taxpayer elects in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

"'(3) Timber properties: For any taxable year, the nontaxable income from exempt excess output of a timber block which was in operation during the base period shall be an amount equal to the excess output of such property for such year multiplied by one-half of the unit net income from such property for such year.

"'(c) Nontaxable bonus income: The term "nontaxable bonus in income" means the amount of the income derived from bonus payments made by any agency of the United States Government on account of the production in excess of a specified quota of a mineral product or of timber the exhaustion of which gives rise to an allowance for depletion under section 23 (m), but such amount shall not exceed the net income (computed with the allowance for depletion) attributable to the output in excess of such quota.

"'(d) Rule in case income from excess output includes bonus payment: In any case in which the income attributable to the excess output includes bonus payments (as provided in subsection (c)), the taxpayer may elect, under regulations prescribed by the Commissioner with the approval of the Secretary, to receive either the benefits of subsection (b) or subsection (c) with respect to such income as is attributable to excess output above the specified quota.'

"(d) Retroactive exclusion of nontaxable bonus income: The amendments made by this section inserting section 711 (a) (1) (I), section 711 (a) (2) (K), and section 735 (c), to the extent that they relate to nontaxable bonus income, shall be applicable to taxable years beginning after December 31, 1940."

And the Senate agree to the same.

Amendment numbered 291: That the House recede from its disagreement to the amendment of the Senate numbered 291, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 210. Net operating loss deduction adjustment.

"(a) Section 711 (a) (1) (relating to the excess profits credit computed under income credit) is amended by adding at the end thereof the following new subparagraph:

"'(J) Net operating loss deduction adjustment: The net operating loss deduction shall be adjusted as follows:

"'(i) In computing the net operating loss for any taxable year under section 122 (a), and the net income for any taxable year under section 122 (b), no deduction shall be allowed for any excess profits tax imposed by this subchapter, and, if the excess profits credit for such taxable year was computed under section 714, the deduction for interest shall be reduced by the amount of any reduction under paragraph (2) (B) for such taxable year; and

"'(ii) In lieu of the reduction provided in section 122 (c), such reduction shall be in the amount by which the excess profits net income computed with the exceptions and limitations specified in section 122 (d) (1), (2), (3), and (4) and computed without regard to subparagraph (B), without regard to any credit for dividends received, and without regard to any credit for interest received provided in section 26 (a) exceeds the excess profits net income (computed without the net operating loss deduction).

"(b) Section 711 (a) (2) (relating to the excess profits credit computed under invested capital credit) is amended by adding at the end thereof the following new subparagraph:

"'(L) Net operating loss deduction adjustment.—The net operating loss deduction shall be adjusted as follows:

"'(i) In computing the net operating loss for any taxable year under section 122 (a), and the net income for any taxable year under section 122 (b), no deduction shall be allowed for any excess profits tax imposed by this subchapter, and, if the excess profits credit for such taxable year was computed under section 714, the deduction for interest shall be reduced by the amount of any reduction under subparagraph (B) of this paragraph for such taxable year; and

"'(ii) In lieu of the reduction provided in section 122 (c), such reduction shall be in the amount by which the excess profits net income computed with the exceptions and limitations provided in section 122 (d) (1), (2), (3), and (4) and computed without regard to subparagraph (D), without regard to any credit for dividends received, and without regard to any credit for interest received provided in section 26 (a) exceeds the excess profits net income (computed without the net operating loss deduction).'

"(c) The amendments made by this section shall be effective as of the date of enactment of the Excess Profits Tax Act of 1940."

And the Senate agree to the same.

Amendment numbered 296: That the House recede from its disagreement to the amendment of the Senate numbered 296, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "228"; and the Senate agree to the same.

Amendment numbered 309: That the House recede from its disagreement to the amendment of the Senate numbered 309, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "5"; and the Senate agree to the same.

Amendment numbered 325: That the House recede from its disagreement to the amendment of the Senate numbered 325, and agree to the same with an amendment, as follows: On page 196, line 2, of the Senate engrossed amendments strike out "average" and insert "amount"; and the Senate agree to the same.

Amendment numbered 385: That the House recede from its disagreement to the amendment of the Senate numbered 385, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(d) Optional retroactivity of amendments to 1940 and 1941: The amendments made by this section, inserting section 760 and section 761, shall also be applicable in the computation of the tax for all taxable years beginning after December 31, 1939, if the taxpayer, within the time and in the manner and subject to such regulations as the Commissioner, with the approval of the Secretary, prescribes, elects to have either or both of such amendments apply. For any taxable year for which the provisions of section 760 are applied retroactively, the amendment made by subsection (b) (2) of this section to section 719 (a) (1) shall also apply. In case the provisions of section 761 are applied retroactively, the provisions of section 718 (a) (5), section 718 (b) (4), and section 718 (c) (4) shall not apply in such computations."

And the Senate agree to the same.

Amendment numbered 386: That the House recede from its disagreement to the amendment of the Senate numbered 386, and agree to the same with the following amendments:

On page 230, line 6, of the Senate engrossed amendments after "1941" insert "(except in the case of a taxable year beginning in 1941 and ending before July 1, 1942)."

On page 230, beginning with "In" in line 9, of the Senate engrossed amendments strike out down to and including the period in line 12 and insert "For the purposes of this part, in the case of a taxpayer whose tax is determined under section 710 (a) (3), the term 'tax imposed under this subchapter' means the excess of the tax imposed by such section 710 (a) (3) over the tax that would be imposed if such section 710 (a) (3) were not applicable."

On page 231, of the Senate engrossed amendments, in the table appearing on such page strike out "Within the calendar year 1942" and insert "Within the calendar year 1941 or 1942."

On page 235, line 14, of the Senate engrossed amendments after "shall" insert ", at the election of the taxpayer made in its return for such year."

On page 235, of the Senate engrossed amendments strike out lines 20 to 23 inclusive, and insert:

"(1) An amount equal to 10 per centum of the tax imposed under this subchapter for the taxable year."

On page 236, of the Senate engrossed amendments strike out lines 11 and 12 and insert:

"(4) In case such taxable year begins in 1941 or ends before September 1, 1942, zero."

And the Senate agree to the same.

Amendment numbered 391: That the House recede from its disagreement to the amendment of the Senate numbered 391, and agree to the same with an amendment, as follows: On page 249, line 6, of the House bill after "months" insert "on account of a change in the accounting period of the taxpayer"; and the Senate agree to the same.

Amendment numbered 399: That the House recede from its disagreement to the amendment of the Senate numbered 399, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(d) Powers with respect to which amendments not applicable:

"(1) The amendments made by this section shall not apply with respect to a power to appoint, created on or before the date of the enactment of this Act, which is other than a power exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate, unless such power is exercised after the date of the enactment of this Act.

"(2) The amendments made by this section shall not become applicable with respect to a power to appoint created on or before the date of enactment of this Act, which is exercisable in favor of the decedent, his estate, his creditors, or the creditors of his estate, if at such date the donee of such power is under a legal disability to release such power, until six months after the termination of such legal disability. For the purposes of the preceding sentence, an individual in the military or naval forces of the United States shall, until the termination of the present war, be considered under a legal disability to release a power to appoint.

"(3) The amendments made by this section shall not apply with respect to any power to appoint created on or before the date of the enactment of this Act if it is released before January 1, 1943, or within the time limited by paragraph (2) in cases to which such paragraph is applicable; or if the decedent dies before January 1, 1943, or within the time limited by paragraph (2) in cases to which such paragraph is applicable, and such power is not exercised."

And the Senate agree to the same.

Amendment numbered 402: That the House recede from its disagreement to the amendment of the Senate numbered 402, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted

by the Senate amendment insert the following:

"(b) Liability of Life Insurance Beneficiaries: Section 826 (c) (relating to apportionment of liability of beneficiaries) is amended to read as follows:

"'(c) Liability of Life Insurance Beneficiaries: Unless the decedent directs otherwise in his will, if any part of the gross estate upon which tax has been paid consists of proceeds of policies of insurance upon the life of the decedent receivable by a beneficiary other than the executor, the executor shall be entitled to recover from such beneficiary such portion of the total tax paid as the proceeds of such policies bear to the sum of the net estate and the amount of the exemption allowed in computing the net estate, determined under section 935 (c). If there is more than one such beneficiary the executor shall be entitled to recover from such beneficiaries in the same ratio.'"

And the Senate agree to the same.

Amendment numbered 418: That the House recede from its disagreement to the amendment of the Senate numbered 418, and agree to the same with an amendment, as follows: Omit the matter proposed to be inserted by the Senate amendment and on page 249, of the Senate engrossed amendments after line 23, insert:

"(c) Release on or before January 1, 1943:

"(1) A release of a power to appoint before January 1, 1943, shall not be deemed a transfer of property by the individual possessing such power.

"(2) This subsection shall apply to all calendar years prior to 1943."

And the Senate agree to the same.

Amendment numbered 435: That the House recede from its disagreement to the amendment of the Senate numbered 435, and agree to the same with an amendment, as follows: Restore the matter proposed to be stricken out by the Senate amendment and strike out wherever appearing therein the term "United States Tax Court" and insert "The Tax Court of the United States"; and the Senate agree to the same.

Amendment numbered 438: That the House recede from its disagreement to the amendment of the Senate numbered 438, and agree to the same with an amendment, as follows: On page 253, line 10, of the Senate engrossed amendments strike out "505" and insert "506"; and the Senate agree to the same.

Amendment numbered 448: That the House recede from its disagreement to the amendment of the Senate numbered 448, and agree to the same with an amendment, as follows: On page 262, line 7, of the Senate engrossed amendments strike out "December 31, 1941" and insert "the date of the enactment of this Act"; and the Senate agree to the same.

Amendment numbered 449: That the House recede from its disagreement to the amendment of the Senate numbered 449, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "507"; and the Senate agree to the same.

Amendment numbered 459: That the House recede from its disagreement to the amendment of the Senate numbered 459, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 508. Mitigation of effect of renegotiation of war contracts or disallowance of reimbursement.

"Chapter 38 is amended by inserting at the end thereof the following new section:

"'SEC. 3806. Mitigation of effect of renegotiation of war contracts or disallowance of reimbursement.

"'(a) Reduction for prior taxable year:

"'(1) Excessive profits eliminated for prior taxable year: In the case of a contract with the United States or any agency thereof, or any subcontract thereunder, which is made by the taxpayer, if a renegotiation is made in respect of such contract or subcontract and an amount of excessive profits received or accrued under such contract or subcontract for taxable year ending after December 31, 1941, "prior taxable year" is eliminated and, in a taxable year ending after December 31, 1941, the taxpayer is required to pay or repay to the United States or any agency thereof the amount of excessive profits eliminated or the amount of excessive profits eliminated is applied as an offset against other amounts due the taxpayer, the part of the contract or subcontract price which was received or was accrued for the prior taxable year shall be reduced by the amount of excessive profits eliminated. For the purposes of this section—

"'(A) The term "renegotiation" includes any transaction which is a renegotiation within the meaning of section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.) or such section, as amended, any modification of one or more contracts with the United States or any agency thereof, and any agreement with the United States or any agency thereof in respect of one or more such contracts or subcontracts thereunder.

"'(B) The term "excessive profits" includes any amount which constitutes excessive profits within the meaning assigned to such term by subsection (a) of section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), as amended by the Revenue Act of 1942, any part of the contract price of a contract with the United States or any agency thereof, any part of the subcontract price of a subcontract under such a contract, and any profits derived from one or more such contracts or subcontracts.

"'(C) The term "subcontract" includes any purchase order or agreement which is a subcontract within the meaning assigned to such term by subsection (a) of section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), as amended by the Revenue Act of 1942.

"'(2) Reduction of reimbursement for prior taxable year: In the case of a cost-plus-a-fixed-fee contract between the United States or any agency thereof and the taxpayer, if an item for which the taxpayer has been reimbursed is disallowed as an item of cost chargeable to such contract and, in a taxable year beginning after December 31, 1941, the taxpayer is required to repay the United States or any agency thereof the amount disallowed or the amount disallowed is applied as an offset against other amounts due the taxpayer, the amount of the reimbursement of the taxpayer under the contract for the taxable year in which the reimbursement for such item was received or was accrued (hereinafter referred to as "prior taxable year") shall be reduced by the amount disallowed.

"'(3) Deduction disallowed: The amount of the payment, repayment, or offset described in paragraph (1) or paragraph (2) shall not constitute a deduction for the year in which paid or incurred.

"'(4) Exception: The foregoing provisions of this subsection shall not apply in respect of any contract if the taxpayer shows to the satisfaction of the Commissioner that a different method of accounting for the amount of the payment, repayment, or disallowance clearly reflects income, and in such case the payment, repayment, or disallowance shall be accounted for with respect to the taxable year provided for under such method, which for the purposes of subsections (b) and (c) shall be considered a prior taxable year.

"'(b) Credit against repayment on account of renegotiation or allowance:

"'(1) General rule: There shall be credited against the amount of excessive profits eliminated the amount by which the tax for the prior taxable year under Chapter 1, Chapter 2A, Chapter 2D, and Chapter 2E, is decreased by reason of the application of paragraph (1) of subsection (a); and there shall be credited against the amount disallowed the amount by which the tax for the prior taxable year under Chapter 1, Chapter 2A, Chapter 2D, and Chapter 2E, is decreased by reason of the application of paragraph (2) of subsection (a).

"'(2) Credit for barred year: If at the time of the payment, repayment, or offset described in paragraph (1) or paragraph (2) of subsection (a), refund or credit of tax under Chapter 1, Chapter 2A, Chapter 2D, or Chapter 2E, for the prior taxable year, is prevented (except for the provisions of section 3801) by any provision of the internal-revenue laws other than section 3761, or by rule of law, the amount by which the tax for such year under such chapters is decreased by the application of paragraph (1) or paragraph (2) of subsection (a) shall be computed under this paragraph. There shall first be ascertained the tax previously determined for the prior taxable year. The amount of the tax previously determined shall be (A) the tax shown by the taxpayer upon his return for such taxable year, increased by the amounts previously assessed (or collected without assessment) as deficiencies, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or (B) if no amount was shown as the tax by such taxpayer upon his return, or if no return was made by such taxpayer, then the amounts previously assessed (or collected without assessment) as deficiencies, but such amounts previously assessed, or collected without assessment, shall be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax. There shall then be ascertained the decrease in tax previously determined which results solely from the application of paragraph (1) or paragraph (2) of subsection (a) to the prior taxable year. The amount so ascertained, together with any amounts collected as additions to the tax or interest, as a result of paragraph (1) or paragraph (2) of subsection (a) not having been applied to the prior taxable year shall be the amount by which such tax is decreased.

"'(3) Interest: In determining the amount of the credit under this subsection no interest shall be allowed with respect to the amount ascertained under paragraph (1) or paragraph (2); except that if interest is charged by the United States or the agency thereof on account of the disallowance for any period before the date of the payment, repayment, or offset, the credit shall be increased by an amount equal to interest on the amount ascertained under either such paragraph at the same rate and for the period (prior to the date of the payment, repayment, or offset) as interest is so charged.

"'(c) Credit in lieu of other credit or refund: If a credit is allowed under subsection (b) with respect to a prior taxable year no other credit or refund under the internal-revenue laws founded on the application of subsection (a) shall be made on account of the amount allowed with respect to such taxable year. If the amount allowable as a credit under subsection (b) exceeds the amount allowed under such subsection, the excess shall, for the purposes of the internal-revenue laws relating to credit or refund of tax, be treated as an overpayment for the prior taxable year which was made at the time the payment, repayment, or offset was made.'"

And the Senate agree to the same.

Amendment numbered 460: That the House recede from its disagreement to the amendment of the Senate numbered 460, and agree to the same with an amendment, as follows: On page 273, line 2, of the Senate engrossed amendments strike out "508" and insert "509"; and the Senate agree to the same.

Amendment numbered 474: That the House recede from its disagreement to the amendment of the Senate numbered 474, and agree to the same with an amendment, as follows: On page 290, line 8, of the Senate engrossed amendments strike out "$2.00" and insert "$2.50"; and the Senate agree to the same.

Amendment numbered 497: That the House recede from its disagreement to the amendment of the Senate numbered 497, and agree to the same with an amendment, as follows: Restore the matter proposed to be stricken out by the Senate amendment and on page 317, line 11, of the House bill strike out "621" and insert "620", and beginning in line 16 strike out the following:

"(a) Tax: There shall be imposed upon the amount paid within the United States after the effective date of this section for the transportation, on or after such effective date, of property by rail, motor vehicle, water, or air from one point in the United States to another, a tax equal to 5 per centum of the amount so paid, except that, in the case of coal, the rate of tax shall be 5 cents per long ton", and insert in lieu thereof:

"'(a) Tax: There shall be imposed upon the amount paid within the United States after the effective date of this section for the transportation, on or after such effective date, of property by rail, motor vehicle, water, or air from one point in the United States to another, a tax equal to 3 per centum of the amount so paid, except that, in the case of coal, the rate of tax shall be 4 cents per short ton.'"

And the Senate agree to the same.

Amendment numbered 498: That the House recede from its disagreement to the amendment of the Senate numbered 498, and agree to the same with an amendment, as follows: On page 295, line 8, of the Senate engrossed amendments strike out "620" and insert "621"; and the Senate agree to the same.

Amendment numbered 499: That the House recede from its disagreement to the amendment of the Senate numbered 499, and agree to the same with an amendment, as follows: On page 296, line 2, of the Senate engrossed amendments strike out "621" and insert "622"; and the Senate agree to the same.

Amendment numbered 500: That the House recede from its disagreement to the amendment of the Senate numbered 500, and agree to the same with an amendment, as follows: On page 297, line 2, of the Senate engrossed amendments strike out "622" and insert "623"; and the Senate agree to the same.

Amendment numbered 503: That the House recede from its disagreement to the amendment of the Senate numbered 503, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

"TITLE VIII—RENEGOTIATION OF WAR CONTRACTS

"SEC. 801. RENEGOTIATION OF WAR CONTRACTS

"(a) Subsections (a), (b), and (c) of section 403 of the Sixth Supplemental National Defense Appropriation Act (Public, 528, 77th Cong., 2d Sess.), are amended to read as follows:

"'Sec. 403. (a) For the purposes of this section—

"'(1) The term "Department" means the War Department, the Navy Department, the Treasury Department, and the Maritime Commission, respectively.

"'(2) In the case of the Maritime Commission, the term "Secretary" means the Chairman of such Commission.

"'(3) The terms "renegotiate" and "renegotiation" include the refixing by the Secretary of the Department of the contract price.

"'(4) The term "excessive profits" means any amount of a contract or subcontract price which is found as a result of renegotiation to represent excessive profits.

"'(5) The term "subcontract" means any purchase order or agreement to perform all or any part of the work, or to make or furnish any article, required for the performance of another contract or subcontract. The term "article" includes any material, part, assembly, machinery, equipment, or other personal property.

"'For the purposes of subsections (d) and (e) of this section, the term "contract" includes a subcontract and the term "contractor" includes a subcontractor.

"'(b) Subject to subsection (i), the Secretary of each Department is authorized and directed to insert in any contract for an amount in excess of $100,000 hereafter made by such Department—

"'(1) a provision for the renegotiation of the contract price at a period or periods when, in the judgment of the Secretary, the profits can be determined with reasonable certainty;

"'(2) a provision for the retention by the United States from amounts otherwise due the contractor, or for the repayment by him to the United States, if paid to him, of any excessive profits not eliminated through reductions in the contract price, or otherwise, as the Secretary may direct;

"'(3) a provision requiring the contractor to insert in each subcontract for an amount in excess of $100,000 made by him under such contract (i) a provision for the renegotiation by such Secretary and the subcontractor of the contract price of the subcontract at a period or periods when, in the judgment of the Secretary, the profits can be determined with reasonable certainty, (ii) a provision for the retention by the contractor for the United States of the amount of any reduction in the contract price of any subcontract pursuant to its renegotiation hereunder, or for the repayment by the subcontractor to the United States of any excessive profits from such subcontract paid to him and not eliminated through reductions in the contract price or otherwise, as the Secretary may direct, and (iii) a provision for relieving the contractor from any liability to the subcontractor on account of any amount so retained by the contractor or repaid by the subcontractor to the United States, and (iv) in the discretion of the Secretary, a provision requiring any subcontractor to insert in any subcontract made by him under such subcontract, provisions corresponding to those of subparagraphs (3) and (4) of this subsection (b); and

"'(4) a provision for the retention by the United States from amounts otherwise due the contractor, or for repayment by him to the United States, as the Secretary may direct, of the amount of any reduction in the contract price of any subcontract under such contract, which the contractor is directed, pursuant to clause (3) of this subsection, to withhold from payments otherwise due the subcontractor and actually unpaid at the time the contractor receives such direction.

"'The provision for the renegotiation of the contract price, in the discretion of the Secretary, (i) may fix the period or periods when or within which renegotiation shall be had; and (ii) if in the opinion of the Secretary the provisions of the contract or subcontract are otherwise adequate to prevent excessive profits, may provide that renegotiation shall apply only to a portion of the contract or subcontract or shall not apply to performance during a specified period or periods and may also provide that the contract price in effect during any such period or periods shall not be subject to renegotiation.

"'(c) (1) Whenever, in the opinion of the Secretary of a Department, the profits realized or likely to be realized from any contract with such Department, or from any subcontract thereunder whether or not made by the contractor, may be excessive, the Secretary is authorized and directed to require the contractor or subcontractor to renegotiate the contract price. When the contractor or subcontractor holds two or more contracts or subcontracts the Secretary in his discretion, may renegotiate to eliminate excessive profits on some or all of such contracts and subcontracts as a group without separately renegotiating the contract price of each contract or subcontract.

"'(2) Upon renegotiation, the Secretary is authorized and directed to eliminate any excessive profits under such contract or subcontract (i) by reductions in the contract price of the contract or subcontract, or by other revision in its terms; or (ii) by withholding, from amounts otherwise due to the contractor or subcontractor, any amount of such excessive profits; or (iii) by directing a contractor to withhold for the account of the United States, from amounts otherwise due to the subcontractor, any amount of such excessive profits under the subcontract; or (iv) by recovery from the contractor or subcontractor, through repayment, credit or suit, of any amount of such excessive profits actually paid to him; or (v) by any combination of these methods, as the Secretary deems desirable. The Secretary may bring actions on behalf of the United States in the appropriate courts of the United States to recover from such contractor or subcontractor, any amount of such excessive profits actually paid to him and not withheld or eliminated by some other method under this subsection. The surety under a contract or subcontract shall not be liable for the repayment of any excessive profits thereon. All money recovered by way of repayment or suit under this subsection shall be covered into the Treasury as miscellaneous receipts.

"'(3) In determining the excessiveness of profits realized or likely to be realized from any contract or subcontract, the Secretary shall recognize the properly applicable exclusions and deductions of the character which the contractor or subcontractor is allowed under Chapter 1 and Chapter 2E of the Internal Revenue Code. In determining the amount of any excessive profits to be eliminated hereunder the Secretary shall allow the contractor or subcontractor credit for Federal income and excess profits taxes as provided in section 3806 of the Internal Revenue Code.

"'(4) Upon renegotiation pursuant to this section, the Secretary may make such final or other agreements with a contractor or subcontractor for the elimination of excessive profits and for the discharge of any liability for excessive profits under this section, as the Secretary deems desirable. Such agreements may cover such past and future period or periods, may apply to such contract or contracts of the contractor or subcontractor, and may contain such terms and conditions, as the Secretary deems advisable. Any such agreement shall be final and conclusive according to its terms; and except upon a showing of fraud or malfeasance or a wilful misrepresentation of a material fact, (i) such agreement shall not be reopened as to the matters agreed upon, and shall not be modified by any officer, employee, or agent of the United States; and (ii) such agreement and any determination made in accordance therewith shall not be annulled, modified, set aside, or disregarded in any suit, action, or proceeding.

"'(5) Any contractor or subcontractor who holds contracts or subcontracts, to which the provisions of this section are applicable, may file with the Secretaries of all the Departments concerned statements of actual costs of production and such other financial statements for any prior fiscal year or years of such contractor or subcontractor, in such form and detail, as the Secretaries shall prescribe by joint regulation. Within one year after the filing of such statements, or within such shorter period as may be prescribed by such

joint regulation, the Secretary of a Department may give the contractor or subcontractor written notice, in form and manner to be prescribed in such joint regulation, that the Secretary is of the opinion that the profits realized from some or all of such contracts or subcontracts may be excessive, and fixing a date and place for an initial conference to be held within sixty days thereafter. If such notice is not given and renegotiation commenced by the Secretary within such sixty days the contractor or subcontractor shall not thereafter be required to renegotiate to eliminate excessive profits realized from any such contract or subcontract during such fiscal year or years and any liabilities of the contractor or subcontractor for excessive profits realized during such period shall be thereby discharged.

"'(6) This subsection (c) shall be applicable to all contracts and subcontracts hereafter made and to all contracts and subcontracts heretofore made, whether or not such contracts or subcontracts contain a renegotiation of recapture clause, unless (i) final payment pursuant to such contract or subcontract was made prior to April 28, 1942, or (ii) the contract or subcontract provides otherwise pursuant to subsection (b) or (i), or is exempted under subsection (i), of this section 403, or (iii) the aggregate sales by the contractor or subcontractor, and by all persons under the control of or controlling or under common control with the contractor or subcontractor, under contracts with the Departments and subcontracts thereunder do not exceed, or in the opinion of the Secretary concerned will not exceed, $100,000 for the fiscal year of such contractor or subcontractor.

"'No renegotiation of the contract price pursuant to any provision therefor, or otherwise, shall be commenced by the Secretary more than one year after the close of the fiscal year of the contractor or subcontractor within which completion or termination of the contract or subcontract, as determined by the Secretary, occurs.'

"(b) Subsection (f) of section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong., 2d Sess.), is amended to read as follows:

"'(f) Subject to any regulations which the President may prescribe for the protection of the interests of the Government, the authority and discretion herein conferred upon the Secretary of each Department may be delegated in whole or in part by him to such individuals or agencies as he may designate in his Department, or in any other Department with the consent of the Secretary of that Department, and he may authorize such individuals or agencies to make further delegations of such authority and discretion.'

"(c) Section 403 of the Sixth Supplemental National Defense Appropriation Act (Public 528, 77th Cong. 2d sess.), is amended by adding at the end thereof the following subsections:

"'(i) (1) The provisions of this section shall not apply to—

"'(i) any contract by a Department with any other department, bureau, agency, or governmental corporation of the United States or with any Territory, possession, or State or any agency thereof or with any foreign government or any agency thereof; or

"'(ii) any contract or subcontract for the product of a mine, oil or gas well, or other mineral or natural deposit, or timber, which has not been processed, refined, or treated beyond the first form or state suitable for industrial use; and the Secretaries are authorized by joint regulation, to define, interpret, and apply this exemption.

"'(2) The Secretary of a Department is authorized, in his discretion, to exempt from some or all of the provisions of this section—

"'(i) any contract or subcontract to be performed outside of the territorial limits of the continental United States or in Alaska;

"'(ii) any contracts or subcontracts under which, in the opinion of the Secretary, the profits can be determined with reasonable certainty when the contract price is established, such as certain classes of agreements for personal services, for the purchase of real property, perishable goods, or commodities the minimum price for the sale of which has been fixed by a public regulatory body, of leases and license agreements, and of agreements where the period of performance under such contract or subcontract will not be in excess of thirty days; and

"'(iii) a portion of any contract or subcontract or performance thereunder during a specified period or periods, if in the opinion of the Secretary, the provisions of the contract are otherwise adequate to prevent excessive profits.'"

The Secretary may so exempt contracts and subcontracts both individually and by general classes or types.

"'(j) Nothing in sections 109 and 113 of the Criminal Code (U. S. C., title 18, secs. 198 and 203) or in section 190 of the Revised Statutes (U. S. C., title 5, sec. 99) shall be deemed to prevent any person appointed by the Secretary of a Department for intermittent and temporary employment in such Department, from acting as counsel, agent, or attorney for prosecuting any claim against the United States: *Provided*, That such person shall not prosecute any claim against the United States (1) which arises from any matter directly connected with which such person is employed, or (2) during the period such person is engaged in intermittent and temporary employment in a Department.'"

"(d) The amendments made by this section shall be effective as of April 28, 1942."

And the Senate agree to the same.

Amendment numbered 504.

Amend the table of contents to read as follows:

"TITLE I—INDIVIDUAL AND CORPORATION INCOME TAXES

"PART I—AMENDMENTS TO CHAPTER 1

"Sec. 101. Taxable years to which amendments applicable.

"Sec. 102. Normal tax on individuals (sec. 11).

"Sec. 103. Surtax on individuals (sec. 12 (b)).

"Sec. 104. Optional tax on individuals with gross income from certain sources of $3,000 or less (sec. 400).

"Sec. 105. Tax on corporations (sec. 15).

"Sec. 106. Tax on nonresident alien individuals (sec. 211).

"Sec. 107. Tax on foreign corporations (sec. 231 (a)).

"Sec. 108. Withholding of tax at source (secs. 143 and 144).

"Sec. 109. Treaty obligations.

"Sec. 110. Transfers of life insurance contracts, etc. (sec. 22 (b) (2)).

"Sec. 111. Income received from estates, etc., under gifts, bequests, etc. (sec. 22 (b) (3)).

"Sec. 112. Amendments to conform Internal Revenue Code with Public Debt Act of 1941 (sec. 22 (b) (4)).

"Sec. 113. Exclusion of pensions, annuities, etc., for disability resulting from military service (sec. 22 (b) (5)).

"Sec. 114. Exclusion of income from discharge of indebtedness (sec. 22 (b) (9)).

"Sec. 115. Improvements by lessee (sec. 22 (b)).

"Sec. 116. Recovery of bad debts, prior taxes, and delinquency amounts (sec. 22 (b)).

"Sec. 117. Additional allowance for military and naval personnel (sec. 22 (b)).

"Sec. 118. Report requirement in connection with inventory methods (sec. 22 (d) (2)).

"Sec. 119. Last-in first-out inventory (sec. 22 (d)).

"Sec. 120. Alimony and separate maintenance payments (sec. 22).

"Sec. 121. Non-trade or non-business deductions (sec. 23 (a)).

"Sec. 122. Deduction allowable to purchasers for State and local retail sales taxes (sec. 23 (c)).

"Sec. 123. Deduction for stock and bond losses on securities in affiliated corporations (sec. 23 (g)).

"Sec. 124. Deduction for bad debts etc. (sec. 23 (k)).

"Sec. 125. Corporate contributions to United States, etc., or for charitable use outside United States deductible (sec. 23 (q)).

"Sec. 126. Amortizable bond premium (sec. 23).

"Sec. 127. Deduction for medical, dental, etc., expenses (sec. 23).

"Sec. 128. Deduction of certain amounts paid to cooperative apartment corporation (sec. 23).

"Sec. 129. Deduction denied if proceeds used to pay for insurance (sec. 24 (a)).

"Sec. 130. Taxes and other charges chargeable to capital account not deductible but treated as capital items (sec. 24 (a)).

"Sec. 131. Reduction of personal exemption and credit for dependents—requirement for return (sec. 25 (b) (1)).

"Sec. 132. Computation of net operating loss credit and dividends paid credit (sec. 26 (c) (1)).

"Sec. 133. Credit for dividends paid on certain preferred stock (sec. 26).

"Sec. 134. Income in respect of decedents (sec. 42 (a)).

"Sec. 135. Returns for a period of less than twelve months (sec. 47).

"Sec. 136. Declaration that return made under penalties for perjury in lieu of oath (sec. 51).

"Sec. 137. Exemption of employees' voluntary beneficiary associations (sec. 101).

"Sec. 138. Denial of capital loss carry-over to section 102 companies (sec. 102 (d) (1)).

"Sec. 139. Compensation for services rendered for a period of thirty-six months or more (sec. 107).

"Sec. 140. Certain fiscal year taxpayer (sec. 108).

"Sec. 141. Western Hemisphere trade corporations (sec. 109).

"Sec. 142. Nonrecognition of loss and determination of basis in case of certain railroad reorganizations (sec. 112 (b)).

"Sec. 143. Basis of gifts (sec. 113 (a)).

"Sec. 144. Basis of property in case of optional value for estate tax purposes (sec. 113 (a) (5)).

"Sec. 145. Percentage depletion for coal, fluorspar, ball and sagger clay, rock asphalt, and metal mines and sulphur (sec. 114 (b) (4)).

"Sec. 146. Effect on earnings and profits of wash sale losses (sec. 115 (l)).

"Sec. 147. Distributions in liquidation (sec. 115 (c)).

"Sec. 148. Income from sources without United States in certain cases (sec. 116 (a)).

"Sec. 149. Reciprocal exemption of compensation of employees of the Commonwealth of the Philippines (sec. 116 (h)).

"Sec. 150. Capital gains and losses (sec. 117).

"Sec. 151. Real property; involuntary conversions; etc. (sec. 117).

"Sec. 152. Holding period of stock acquired through exercise of rights (sec. 117 (h)).

"Sec. 153. Two-year carry-back of net operating losses (sec. 122 (b)).

"Sec. 154. Commodity credit loans (sec. 123).

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"Sec. 508. Mitigation of effect of renegotiation of war contracts or disallowance of reimbursement.
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"Sec. 605. Cigars and cigarettes (sec. 2000).
"Sec. 606. Telephone, telegraph, etc. (sec. 3465).
"Sec. 607. Photographic apparatus (sec. 3406 (a) (4)).
"Sec. 608. Lubricating oils (sec. 3413).
"Sec. 609. Transportation of persons (sec. 3469).
"Sec. 610. Organs under contract before October 1, 1941 (sec. 3404 (d)).
"Sec. 611. Termination of certain excise taxes (sec. 3406 (a) (5), (7), (8), and (9)).
"Sec. 612. Affixing of cigarette stamps in foreign countries (sec. 2112 (c)).
"Sec. 613. Exemption of insignia, etc., used in connection with uniforms of the armed forces from jewelry tax (sec. 2400).
"Sec. 614. Refrigerators, refrigerating apparatus, and air-conditioners (sec. 3405).
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"Sec. 616. Exempt transportation of oil by pipe line (sec. 3460).
"Sec. 617. Coin-operated amusement and gaming devices (sec. 3267).
"Sec. 618. Sale under chattel mortgage (sec. 2405 and sec. 3441).
"Sec. 619. Repeal of certain provisions relating to mixed flour (Chapter 18, Chapter 27).
"Sec. 620. Transportation of property.
"Sec. 621. Exemption from processing tax of palm oil used in manufacture of iron or steel products (sec. 2477).
"Sec. 622. Cabaret tax (sec. 1700 (e)).
"Sec. 623. Sale and use of toilet preparations by beauty parlors, etc. (sec. 2402 (b)).

"TITLE VII—SOCIAL SECURITY TAXES

"Sec. 701. Automatic increase in 1943 rate not to apply (secs. 1400 and 1410).

"TITLE VIII—RENEGOTIATION OF WAR CONTRACTS

"Sec. 801. Renegotiation of war contracts."

WALTER F. GEORGE,
DAVID I. WALSH,
ALBEN W. BARKLEY,
TOM CONNALLY,
ROBERT M. LA FOLLETTE, Jr.,
ARTHUR CAPPER,
A. H. VANDENBERG,
Managers on the part of the Senate.

R. L. DOUGHTON,
JERE COOPER,
JOHN W. BOEHNE, Jr.,
WESLEY E. DISNEY,
ALLEN T. TREADWAY,
HAROLD KNUTSON,
DANIEL A. REED,
Managers on the part of the House.

The PRESIDING OFFICER. Is there objection to the present consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

Mr. GEORGE. Mr. President, I propose to make only a brief statement with respect to some of the material things which were done in conference.

The total net yield under the Senate provisions, as estimated by the joint committee staff, is $7,886,500,000. The gross yield is $9,659,200,000. Under the conference agreement the total net yield amounts to $7,951,500,000, and the gross yield was increased to $9,724,200,000. The House bill was estimated by the Treasury to yield $6,291,300,000.

The principal amendment made by the Senate to bring the Senate version over the House bill was the Victory tax, which, according to the estimates of the joint committee staff, will yield $3,600,000,000 on a gross basis, with a net basis of $2,500,000,000. The House conferees accepted this amendment with some minor amendments.

Of the 503 amendments placed in the bill, the House conferees accepted all but 19. Of this number, however, it is proper to note that 215 of the amendments were technical or clerical. I shall point out a few of the Senate amendments in which the House conferees concurred.

First, the House conferees agreed to the amendment allowing corporations to deduct dividends paid on preferred stock for surtax purposes only.

The House conferees agreed to the so-called Tydings amendment, providing a differential in rates for alcohol used for medicinal and other nonbeverage purposes.

The amendment allowing percentage depletion for ball and sagger clay and rock asphalt was agreed to.

The corporate rates, with a total normal and surtax of 40 percent, and the excess-profits tax, with an excess-profits tax of 90 percent and a post-war credit of 10 percent of the excess-profits tax, and its current debt relief provision, were agreed to.

The House conferees also agreed to the Senate method of taxing mutual insurance companies, with an amendment raising the exemption in the case of interinsurers and reciprocal underwriters from $3,000 to $50,000 with respect to their net investment income.

The Senate provisions with respect to the net loss carry-over and carry-back, the unused excess-profits credit carry-over and carry-back, and the 80 percent over-all limitation on corporations' normal, surtax, and excess-profits tax were agreed to.

It will be recalled that the Senate reduced the credit for dependents from $400 to $300. The House continued the $400 credit allowed under existing law. A compromise was reached resulting in fixing the credit at $350.

The Senate amendments dealing with mining corporations and logs were agreed to, with the exception that logs were given the same treatment as coal and iron under the Guffey amendment.

The House conferees agreed to the Senate amendments dealing with American citizens who are bona fide nonresidents of the United States.

The House conferees agreed to the Senate amendments with respect to capital gains, the most important of which was the shortening of the holding period on long-term capital gains to 6 months.

In the case of the tax on cigars the House conferees agreed to the Senate amendments, except that the rate on the two-for-5-cent cigars was raised from $2 to $2.50 a thousand. The House strongly insisted upon the retention of the $2.50 a thousand tax on the two-for-5-cent cigars.

The House agreed to the Senate amendment continuing the rates of existing law as to smoking tobacco, cigarette papers, and tubes. The House placed a tax of 24 cents a pound on smoking tobacco. It will be recalled that the tax was reduced to 18 cents in the Senate, 18 cents being the rate provided by existing law.

The Senate war-loss provisions, which constituted an important section in the bill, were agreed to, as were the Senate provisions dealing with pension plans.

The Senate relief provisions further broadening the splendid work of the House on section 722 were agreed to.

Of the amendments as to which we were compelled to yield to the House I shall mention a few. We were compelled to yield on the amendment offered by the Senior Senator from South Carolina [Mr. SMITH] exempting stock accident-insurance and health-insurance companies engaged in the business of issuing cancelable accident insurance and life-insurance contracts if the gross amount received during the taxable year from interest, dividends, rents, and premiums did not exceed $200,000. The Senate conferees were forced to yield on the Senate amendments repealing the capital-stock tax and declared-value excess-profits tax, in favor of the House provision permitting an annual declaration.

We were also forced to yield on the Senate amendment striking out the transportation tax. However, the rate of the tax was reduced from 5 percent of the amount paid to 3 percent of the amount paid, and, in the case of coal, the rate was reduced from 5 cents a long ton to 4 cents a ton. The coal producers themselves had asked for a change from the long-ton basis to the short-ton basis.

The amendment offered by the junior Senator from Connecticut [Mr. DANAHER] limiting deductions to individuals in certain cases of continuous loss over a period of 5 years was not agreed to, the House having declined to accept it.

On the estate tax, the Senate conferees were forced to agree to the House provision of one $60,000 exemption, instead of the Senate provision of a $40,000 specific exemption and a $40,000 insurance exemption. We were also forced to agree to the House provision changing the name of the Board of Tax Appeals.

The provision creating a Joint Committee on Compulsory Savings was not agreed to by the House conferees, and the Senate conferees receded. It was contended on the part of the House conferees that the work could be performed by the Joint Committee on Internal Revenue Taxation and the other regular tax committees of the House and Senate.

We also yielded to the House as to the tax on photographic apparatus.

In the case of the tax on coin-operated devices, the Senate conferees yielded, and eliminated the amendment offered by the junior Senator from California [Mr. DOWNEY] providing for special treatment of trade stimulator machines, and removing them from the category of gaming devices.

The Senate provisions relating to the freezing of social-security taxes were agreed to by the House, as well as the amendments offered by the senior Senator from Massachusetts [Mr. WALSH], as chairman of the subcommittee, relating to the renegotiation of contracts.

I may say that the amendments offered by the Senator from Massachusetts in the Senate, and agreed to in the Senate, were accepted without any change, as I now recall, by the House conferees—certainly without any substantial change. There were, perhaps, certain technical amendments offered by the House conferees, and concurrence was had as to those technical amendments. However, it was stressed in conference that the whole subject matter of contract renegotiations was before the Ways and Means Committee of the House at this time in connection with a bill introduced, and that the committee would go into the question at a convenient date.

I read from the statement submitted by the managers of the conference on the part of the House:

> The committee of conference does not feel that the amendments which were made by the bill to the renegotiation law contain all the changes and improvements which it might be desirable to make. No attempt has been made to study and reexamine all the possible methods for dealing with excessive profits realized on war contracts. The bill merely attempts to remove some of the more pressing objections to the present law, and to make the law administratively workable. It is anticipated that the Ways and Means Committee will study section 403 in connection with matters now pending before the committee, with an eye to a more general revision than is contained in the 1942 revenue bill.

Mr. McNARY. Mr. President, will the Senator yield?

Mr. GEORGE. I am glad to yield to the Senator from Oregon.

Mr. McNARY. I do not want to interrupt the Senator.

Mr. GEORGE. No; I am glad to yield. I have finished my statement.

Mr. McNARY. Mr. President, I simply wanted to take a minute of the Senate's time in order to express my displeasure that the Senate conferees felt they should recede from amendment No. 497 with respect to transportation. In the bill as it passed the House there was a tax of 5 percent on transportation. Looking at the matter from a very wide point of view, the Senate committee removed that discrimination, as I am pleased to

call it, as to the shippers in the West. From the conference report I observe that before the committee the Senate conferees receded from the Senate's very substantial and fair attitude, and accepted a compromise of 3 percent.

Mr. GEORGE. The Senator is correct.

Mr. McNARY. I am sorry that the Senate conferees receded. I am more sorry that the House conferees insisted upon the recession. It will work a very great hardship upon the western timber owners and converters of timber and forest products, because their market is in the East, and they are in a very unfair position so far as the trade is concerned and so far as the marketing of their products is concerned, because they are removed from the market, as against owners and converters in the South, the Great Lakes States, and the East.

I simply desire to express my disapproval. That does not mean that I disapprove of the report, but I think it is unfair.

At this point I desire to read a telegram which reached my desk a few moments ago. It expresses the views of the western lumbermen of the States, I should say, of Oregon, Washington, Montana, Idaho, and California. The telegram is from Col. W. B. Greely, former Federal Forester, now manager of the West Coast Lumbermen's Association. The telegram reads as follows:

> The 3-percent transportation tax as accepted by revenue bill conference report is grossly unjust and discriminatory against all western products.

That is the brief telegram, and it covers the subject matter.

I realize that in a conference there often is a question of a compromise in order to come to an agreement; and I shall accept the conference report with very good grace, because I know that the committee was impressed with the unfairness of the tax, and I am willing to assume that they went as far as they could go to maintain their position. However, I am disappointed.

Mr. GEORGE. Mr. President, the Senator from Oregon has exactly described the situation. All the Senate conferees were agreed that the tax should not be imposed. However, the House conferees very strongly insisted on their position. We did not dispose of the issue until late in the conference. At that time we finally reached an agreement, not on the 5-percent tax as provided for in the House bill, but on a 3-percent tax, which, I may say, was the tax in World War No. 1.

I, too, regret that the tax was not entirely eliminated, because I believe it to be an unwise tax, and that it bears unjustly on the shippers of raw materials such as lumber, and on the shippers of bulky farm products.

However, I know that the Senator from Oregon understands that in a long conference with so many amendments, we find it difficult to prevail on the other conferees to accept our views in full.

Mr. McNARY. Yes; I understand that.

Mr. THOMAS of Idaho. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. THOMAS of Idaho. I desire to concur in the statements made by the Senator from Oregon, and also I wish to say that I appreciate the attitude of the chairman of the Committee in the handling of the freight tax.

Idaho is so situated that the freight paid by its residents on raw materials probably is higher than that paid by the residents of any other State in the Union; and when it comes to the matter of shipping bulky products, and then arriving at a tax on a percentage basis, Senators can readily understand what that does to our State.

Our people are very much disappointed that the Senate committee found it necessary to recede on this particular amendment. I make the prediction that when we write another tax bill we shall find so great a reaction against this particular form of taxation that there will be a decided effort again to eliminate this particular tax. I know that Mr. Henderson was opposed to it. I think Secretary Morgenthau was opposed to it. Yet it has been accepted; and, naturally, I myself am inclined to accept it, although with a great deal of regret.

I appreciate the attitude of the Senate Finance Committee and the Senate conferees, and the work they have done and the time they have spent on this matter, and the effort they have made to work out everything in a satisfactory manner. I simply wanted to take this opportunity to express my regret and disappointment in the handling of this particular tax.

Mr. GEORGE. Mr. President, the lower rate will, of course, be of some considerable help. The original House rate is cut by two-fifths, and, of course, that will be helpful, but I, too, again express regret that we were not able to prevail on this particular point.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Wisconsin?

Mr. GEORGE. I am glad to yield.

Mr. LA FOLLETTE. I wish to say in behalf of the Senate conferees that I think a sincere and valiant effort was made to secure the consent of the House to recede and to accept the Senate amendment to strike out the transportation tax. If my recollection serves me correctly, it was one of the last items disposed of in the bill.

Mr. GEORGE. I am sure it was.

Mr. LA FOLLETTE. We had a long discussion over it, and I can assure Senators who are interested that we presented every possible argument with all the force at our command in our effort to secure the consent of the House to strike out the provision for a transportation tax; but, as the Senators who have heard the report of the able chairman of the Finance Committee, the Senator from Georgia [Mr. GEORGE], will realize the Senate really cannot complain as to the outcome of the conference, if everything is taken as a whole, for the Senate was, I believe, quite successful in retaining many of the major provisions which it had placed in the bill when it was under consideration by the Senate.

If the Senator from Georgia will bear with me for a moment further, I should like to call attention for the RECORD to the fact that this, the largest tax bill in all history, is about to pass the Senate in final form just 2 weeks from the day when it was taken up for consideration after being reported from the Senate Finance Committee. My attitude toward many of the provisions of this bill will appear in the record of the debate during the days when the bill was under consideration, but I cannot refrain from expressing my wholehearted appreciation and admiration for the statesmanlike attitude which was taken by the conferees representing the House of Representatives and by my colleagues on the conference committee representing the Senate. In all the experience I have had with conferences, I have never seen one in which there was manifested a greater desire to secure a speedy and proper determination of the issues which were involved in controversy.

I also desire to express my public appreciation to the members of the joint committee staff, to the members of the Treasury staff, to the draftsmen who worked on this measure under the greatest pressure and with a terrific load upon them, which lasted night and day for a month. They have rendered invaluable service to the two committees and to the Congress. I only wish, without burdening the RECORD, I could place all their names in the RECORD, for they deserve the appreciation of the Congress and the country for the splendid work they have done.

Mr. DANAHER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield to the Senator from Connecticut?

Mr. GEORGE. I should be glad if the Senator would permit me strongly to emphasize every statement made by the distinguished senior Senator from Wisconsin [Mr. LA FOLLETTE], and especially to note the very fine spirit of cooperation and statesmanship with which the House conferees approached this very difficult task. I should like also especially to express my appreciation of the very hearty cooperation of the conferees on the part of the Senate and of all the officials, including the draftsmen, the Joint Committee staff, and the Treasury staff, for their splendid cooperation in carrying through this bill in what is, undoubtedly, record time for a bill of this size.

Now I yield to the Senator from Connecticut.

Mr. DANAHER. I thank the Senator. The Senator from Georgia will recall that both in the Finance Committee and in the Senate there were many of us of a mind that we should cause a special study made of the possibilities of a compulsory savings program, and also to consider such matters as the Ruml plan and similar and substantially related possible programs. Does the Senator choose to make any comment to us as to just what situation developed in conference with reference to that study committee?

Mr. GEORGE. I have already referred to that amendment, and I can add but a few words to what I had to say. The Senate conferees earnestly insisted on the retention of the amendment offered by the distinguished Senator from Ohio [Mr. TAFT] in the Committe on Finance and approved by the Senate; but the House conferees very strongly resisted it. They were unanimous on this particular question. Their position was that since we have a Joint Committee on Internal Revenue Taxation, and since the Committee on Ways and Means of the House of Representatives and the Finance Committee of the Senate are ready to function at any and all times, they regarded it as unnecessary to appoint a sepecial committee. They were very insistent upon their position, and the Senate conferees finally yielded, although I can say to the Senator in all sincerity that there was a strong insistance on the part of the Senate conferees with respect to that amendment. We were not able, however, to make any headway.

Mr. DANAHER. Mr. President, will the Senator yield further?

Mr. GEORGE. I am glad to yield.

Mr. DANAHER. There is one other point I wish to have something said about. I notice that the Senate conferees accepted the House language which provides that henceforth the Board of Tax Appeals shall be called a court. The fact that it is to be called a court does not make it one, does it?

Mr. GEORGE. Oh, no. The text of the bill expressly declares that the functions and powers and duties, and so forth, of the Board shall remain the same, although the Board has now taken a new name.

Mr. DANAHER. It is not a part of the judicial system of the country?

Mr. GEORGE. It is not a part of the judicial system.

Mr. DANAHER. We do not even have to call the members judges if we do not wish to do so?

Mr. GEORGE. No; but if we should have cases before them after we leave the Senate we probably would want to call them judges.

Mr. DANAHER. Probably it would be wise to do so.

Mr. GEORGE. Mr. President, if there are no other questions, I desire to make a brief statement on the bill as a whole.

Under this tax bill the excess-profits tax is fixed at 90 percent. Excess profits will now be computed on exactly the same basis as they were computed under the Excess Profits Tax Act of World War No. 1, with, of course, certain exceptions which I shall not undertake to mention. So far, however, as the principle of the reversal of credits goes it will be found in the World War excess-profits tax. Under that act the excess-profits tax was allowed in computing income subject to normal tax. The normal tax was not allowed in computing income subject to the excess-profits tax.

Upon that point I think it is proper for the country to know that while the excess-profits tax imposed by Canada and Great Britain is 100 percent, a tax credit of 20 percent is allowed in both Canada and in Great Britain. The rate imposed under our revenue law is now 90 percent, with a tax credit of 10 percent. So the excess-profits tax the American corporation is called upon to pay is, in fact, the same tax that is paid by the corporate taxpayer in Canada and Great Britain.

Just a word now about our corporate rates as compared with the rates in both Canada and Great Britain. The rate on the British corporation is 50 percent, but the corporation is entitled to recoup this tax out of dividends declared to the shareholder, and that is not true in the case of the American corporations. The British tax is thus in effect paid by the shareholder. The corporate normal and surtax rate under our revenue law, if this bill shall be approved by the President, will be 40 percent. But our shareholders must pay full normal and surtax on the entire dividends received by them, even though the 40-percent tax has already been collected from the corporation.

The tax system of Canada, our neighbor in many respects, with conditions somewhat akin to ours, has a normal corporate tax of 40 percent only where there is no excess-profits tax assessed against the taxpayer, and a 30-percent normal tax where the taxpayer pays both the normal and the excess-profits tax. No surtax is imposed upon corporations in either Great Britain or Canada.

Under our revenue law, let me repeat, the American corporation will pay a 40-percent normal and surtax, and the same effective excess-profits tax rate which is paid by the Canadian corporation.

Mr. President, much has been said about the back-breaking and unbearable rates which are placed upon individuals in the United States who pay income taxes. I do not wish to tire the Senate, but I do desire to have the figures which I have before me made a part of the public record.

On a gross income of $2,400, reduced by 10 percent, which, on the basis of experience, is the amount which should be taken to arrive at the net taxable income—on a gross income of $2,400 a year, $200 a month, or $2,160 net, a single person in the United States without dependents will pay $391.24 on his 1943 income. A married person with no dependents will pay a tax of $258.24 on his 1943 income. Included in this tax is also the Victory tax, which will not go into effect until January 1, 1943.

Let me repeat, on a gross income of $2,400, the total tax, including the Victory tax, which a single individual in the United States, without dependents, will pay, is $391.24. A married person with no dependents will pay $258.24.

In Canada the same individual, with the same income, if single, would pay a tax of $692, against $391.24 in the United States. A married individual in Canada with no dependents would pay $518, against $258.24 in the United States.

In Great Britain the same individual, single, without dependents, would pay $696.50, against $391.24 in the United States. If married and without dependents he would pay $576.50, against $258.24 in the United States.

On a $3,000 gross income, reduced by 10 percent to $2,700, in the United States an unmarried person with no dependents will pay $526.60, including the Victory tax. A married person with no dependents will pay $387.60.

In Canada the same person, unmarried and without dependents, will pay $941.40 and the same person, married, but without dependents, will pay $761.40.

In Great Britain the same person, single and without dependents, would pay $939.50. If married with no dependents he would pay $819.50.

Let us take a $15,000 income, reduced by 10 percent to $13,500. In the United States the tax, including the Victory tax, will be $4,437.80 on a single person with no dependents. It will be $4,143.80 on a married person with no dependents.

Comparing that with Canada, the single person without dependents, who would pay $4,437.80 in the United States, would pay $7,487 in Canada. Married and without dependents he would pay $7,037.

In Great Britain the same person who paid $4,437.80 in the United States, a single person without dependents, will pay $6,843.25, and a married person drawing that income in Great Britain, without dependents, will pay $6,723.25, as against $4,143.80 he will pay under our revenue law.

Whatever may be said, the individual taxpayers in America are not paying as much as the British and the Canadians are paying. It is true that in Canada and in Great Britain there is a post-war credit. In Canada the post-war credit may be partially taken up, as in the case of the United States, by payments upon life insurance and debts. It is also true that a post-war credit is given against the Victory tax, but it is fair to note that the post-war credit in the United States is not so great as it is in Great Britain or in Canada, yet while the comparative figures given are on a gross basis in each instance the net tax in Canada and in Great Britain is in excess of the net tax in the United States.

Mr. LA FOLLETTE. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. LA FOLLETTE. I believe that no one would contend that our taxpayers are paying as much as is being paid by the people in Great Britain or in Canada. However, is it not fair to point out that in Canada, for example, the Provinces have abandoned the provincial income tax, and have yielded it up to the national Government, and that in Great Britain the only remaining taxes which are paid are certain license taxes and fees of certain kinds, whereas in this country many States have very stiff income tax laws, and if the taxpayers own real property they are required to pay a local and, in some States, a State real estate tax? So we do not really get quite a fair picture of the total burden under which the American taxpayer is laboring if we merely make a comparison of what might be termed the Federal, or central Government's tax.

Mr. GEORGE. I was about to point that out. I am glad the Senator brought it to my attention. There is a tax in Britain comparable to our real property taxes, also in Canada. It is fair to note the facts brought out by the able Senator from Wisconsin, and it is also fair to emphasize what I have just said, that the post-war credit in Great Britain and in Canada is greater than it is in the United States.

When it is considered that in the United States the individual is paying a tax upon his income in 34 of our States of from 1 percent to 15 percent, as well as other local taxes, and when it is also remembered that the total tax paid by the American people to the States and local governments will aggregate at least $10,000,000,000, or slightly in excess of $10,000,000,000, I think it will be seen that while the individual taxpayers of the United States are now paying less in income taxes, they are paying substantially as much in the way of total taxes as the individuals in Britain and in Canada. In this connection, it should be pointed out that State income taxes are allowed as a deduction in computing our ordinary normal and surtaxes.

Mr. LA FOLLETTE. If the Senator will suffer one more interruption, I will say that it also occurs to me that it might be well to point out that, even insofar as Federal taxes are concerned, a very substantial part of our tax revenue is derived from excise taxes, which are not taken into account in the individual's income tax comparisons which the Senator has just given, and which have to be paid, of course, by the taxpayer in the increased prices of the goods he buys.

Mr. GEORGE. The Senator is correct. I did not note the fact that excise taxes are likewise paid by individuals in both Canada and Great Britain. In addition Canada has an 8-percent manufacturers' sales tax and Great Britain a sales or purchase tax.

The point I wish to emphasize is that the burden on the American taxpayer is very heavy now, and yet in all fairness it must be thought of as a bearable burden, because as individual taxpayers we are bearing a lighter burden than that borne by individuals in both Canada and Great Britain.

Mr. WALSH. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. WALSH. It seems to me the Senator's comparison invites another observation because of the direction in which we are moving and the necessity for additional increase in our taxes. Great Britain and Canada have been at war 2 years longer than we have been. Therefore it is to be expected that their taxes would be higher than our taxes. It seems to me that serves the purpose of indicating that as the war continues we must approach more and more to the taxes paid in those countries. Does the Senator agree to that statement?

Mr. GEORGE. Yes. I thank the Senator for his observation.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

SUPPLEMENTAL NATIONAL DEFENSE APPROPRIATIONS

The Senate resumed the consideration of the bill (H. R. 7672) making supplemental appropriations for the National defense for the fiscal year ending June 30, 1943, and for other purposes.

The PRESIDING OFFICER. The clerk will state the next amendment of the Committee on Appropriations.

The next amendment was, on page 17, in line 13, after the word "exceed", to strike out "$8,304,618" and insert "$9,304,618."

The amendment was agreed to.

The next amendment was on the same page, in line 19, after the word "station", to insert a colon and the following: "*Provided further*, That no part of this appropriation shall be available to pay the salary of any person at the rate of $4,500 per annum or more unless such person shall have been appointed by the President, by and with the advice and consent of the Senate."

Mr. BARKLEY. Mr. President, I do not desire to detain the Senate very long, but I feel it my duty to discuss this amendment before it is acted on by the Senate. It is the usual amendment providing that no part of a given appropriation shall be expended to pay the salary of any person within the given departments drawing certain sums of money or more unless he shall have been appointed by the President and confirmed by the Senate. I regret that I find it necessary in the performance of my duty and in accordance with my convictions to oppose an amendment reported by the Committee on Appropriations for all of whose members I entertain the highest respect and for whose acting chairman, the Senator from Tennessee [Mr. McKELLAR], as he knows well, I entertain not only the highest respect but an affectionate regard.

Mr. President, no Member of the Senate is more jealous than I am of senatorial privileges and prerogatives and senatorial rights, and I hope that no one is more zealous in the preservation of our constitutional powers and restrictions and prerogatives than I am. I do not think there is any constitutional question involved in the controversy over this amendment.

In order that I may emphasize what I have just stated, I will read the provision of the Constitution referred to yesterday by the Senator from Tennessee, and upon which he relies, seemingly, as a mandatory direction to Congress and to the Senate with respect to appointments and confirmations. The second paragraph of section 2 of article II of the Constitution, referring to the powers of the President, is as follows:

> He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advise and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

So, while the Constitution provides that the President may nominate, and by and with the advice and consent of the Senate, shall appoint certain officers, it provides that Congress may by law provide for the appointment of these officers by the President alone, or by the courts, or by the heads of executive departments. I interpolate the word "executive," because the word is not in the Constitution.

From time to time Congress has exercised the right and power which it has, under that constitutional provision, of requiring senatorial confirmation with respect to offices created by act of Congress. Undoubtedly Congress has the right, if it sees fit to exercise it by law, to require the confirmation by the Senate of all Federal officers, but Congress has not by any means uniformly exercised such right.

I have before me a list of offices created by the Congress under acts of Congress as to which senatorial confirmation has not been required, and is not now required. There are 46 different agencies and departments of the Federal Government set up by act of Congress as to which senatorial confirmation is not required. So it is obviously not a mandatory constitutional provision, and it is no violation of the Constitution, but on the contrary is in harmony with the Constitution, for the Congress to forego in the law the right to confirm appointments made by the President of the United States. The list of agencies to which I referred is as follows:

Board of Economic Warfare; Office of Censorship; Office of Liaison Officer; Office of Emergency Management; Division of Central Administrative Service of the O. E. M.; Office of Coordinator of Inter-American Affairs, O. E. M.; Office of Defense Health and Welfare Services; Office of Defense Transportation; National War Labor Board; Office of Scientific Research and Development; War Manpower Commission; War Production Board.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. HATCH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Aiken	Downey	Maybank
Andrews	Doxey	Mead
Austin	Ellender	Murdock
Bailey	George	Norris
Ball	Gerry	Nye
Barbour	Gillette	O'Daniel
Barkley	Green	O'Mahoney
Bilbo	Guffey	Overton
Bone	Gurney	Pepper
Brewster	Hatch	Radcliffe
Bulow	Hayden	Reed
Bunker	Hill	Reynolds
Burton	Johnson, Calif.	Rosier
Butler	Kilgore	Russell
Capper	La Follette	Schwartz
Caraway	Langer	Shipstead
Chandler	Lee	Smathers
Chavez	McFarland	Spencer
Connally	McKellar	Thomas, Idaho
Danaher	McNary	Thomas, Okla.
Davis	Maloney	Thomas, Utah

Tobey	Van Nuys	Wheeler
Tunnell	Wagner	Wiley
Tydings	Wallgren	Willis
Vandenberg	Walsh	

The PRESIDING OFFICER (Mr. BUNKER in the chair). Seventy-four Senators have answered to their names. A quorum is present.

Mr. BARKLEY. Mr. President, I was in the midst of reading a list of agencies with respect to which Congress has not required senatorial confirmation. I shall not comment on each of them, but I should like to have Members of the Senate contemplate the large number of agencies which are in existence, and for which appropriations have been made, but with respect to which senatorial confirmation is not required—in many cases not required at all, and in other cases not required for appointments below the head of the agency involved. I mentioned the War Production Board, the War Relocation Authority, War Shipping Administration, Board of Investigation and Research—Transportation.

Civil Service Commission. While of course we are required to confirm the appointments of members of the Civil Service Commission, we are not required to confirm the appointment of anybody below the grade of member of the Commission.

The same situation applies to the Federal Communications Commission.

Library of Congress. We are required to confirm the nomination of the Librarian of Congress, but we are not required to confirm the appointment of anybody below the grade of Librarian.

Government Printing Office. We confirm the appointment of the Public Printer, who is in charge of the Government Printing Office, but we do not confirm the appointments of employees below him.

The Smaller War Plants Corporation was created by an act of Congress sponsored by the Committee on Small Business, of which the Senator from Montana [Mr. MURRAY] is chairman. For that agency, which was set up in the War Production Board, we appropriated $150,000,000, and did not require senatorial confirmation of the appointments of members of that Corporation. They have been appointed by the head of the War Production Board without confirmation on the part of the Senate.

The Bureau of the Budget.

The National Resources Planning Board.

The American Battle Monuments Commission.

The Bituminous Coal Consumers' Counsel.

Board of Tax Appeals.

Alley Dwelling Authority.

Federal Power Commission. The appointments of members of the Federal Power Commission are confirmed by the Senate, but the Senate is not required to confirm the appointment of anyone below the grade of Commissioner.

The same situation prevails with respect to the Federal Trade Commission.

With respect to the General Accounting Office, we confirm the nomination of the Comptroller General, who is in charge of the General Accounting Office, but we do not confirm appointments in the General Accounting Office itself.

In the case of the Interstate Commerce Commission, we confirm the appointments of Commissioners, but we do not have to confirm the appointments of employees of the Commission.

National Advisory Committee for Aeronautics.

In the case of The National Archives, we confirm the appointment of the Archivist, who has a life tenure, but the appointments of employees below the Archivist himself are not required to be confirmed by the Senate.

National Capital Park and Planning Commission.

Securities and Exchange Commission.

Smithsonian Institution.

United States Tariff Commission.

In the case of the Tennessee Valley Authority, we confirm the appointments of members of the Board of Directors. The same is true with respect to members of the Tariff Commission. However, we do not confirm appointments made by those agencies.

The United States Maritime Commission; the Veteran's Administration; the National Housing Agency, including the Federal Home Loan Bank Administration, the Federal Home Loan Bank System, the Federal Savings and Loan Insurance Corporation, the Home Owners' Loan Corporation, the Federal Housing Administration, the Federal Public Housing Authority, and the Office of the Administrator; the Federal Security Agency, including the Social Security Board, Office of Education, National Youth Administration, Public Health Service, Food and Drug Administration, and several smaller agencies; the Department of Agriculture—we confirm the appointment of the Secretary, of course, as a member of the President's Cabinet—but in the vast setup of the Department of Agriculture where nearly every appointee is under the civil service, the Senate does not exercise, and has never required, senatorial confirmation in the appointment of such persons.

I continue to read the list:

Federal Works Agency, including the Public Buildings Administration, Public Roads Administration, Public Works Administration, and Office of the Administrator; Department of Commerce, including the Civil Aeronautics Administration, and including the following agencies formerly under the Federal Loan Agency, but now under the direction and supervision of the Department of Commerce: the Reconstruction Finance Corporation, the R. F. C. Mortgage Company, the Export-Import Bank of Washington, and the Electric Home and Farm Authority; the Department of the Interior; and the Department of Labor.

Therefore, Mr. President, it cannot be said that there is any mandatory requirement on the part of the Constitution that the Senate confirm the appointment or nomination of inferior officers appointed either by the President or by the heads of departments.

Mr. OVERTON. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. BUNKER in the chair). Does the Senator from Kentucky yield to the Senator from Louisiana?

Mr. BARKLEY. I yield.

Mr. OVERTON. The Constitution provides that the Congress may by law vest the power of appointment of inferior officers in the President or in the heads of the various departments or in the courts. The Senator from Kentucky has just now read a list of various agencies which have been created by acts of Congress or perhaps through Executive order, but acting under the authority conferred by the Congress. In all those cases has the Congress vested in the President or in the heads of the departments authority to nominate and appoint the subordinate officers; or does the Congress simply not insist on its rights, and permit the President or the heads of departments to make the appointments?

Mr. BARKLEY. Some of the agencies have been set up by acts of Congress specifying the creation of the agencies and emphasizing the appointments under them, without requiring senatorial confirmation. In the cases in which Congress has not authorized the appointment of the officers by the President or the head of the department concerned, and has not required senatorial confirmation, it has been regarded as consenting by law to the appointment of the employees without requiring senatorial confirmation.

Some of the agencies which I have just mentioned have been set up by Executive order, as a result of the war, under general authority conferred upon the President by Congress to set up agencies or to take steps necessary to the successful conduct of the war; but in no case I have mentioned has Congress required that appointments made by the President or by the heads of agencies set up by the President should be reported to the Senate for confirmation.

So, either by affirmative law authorizing appointments without requiring senatorial confirmation or by a general law authorizing the President to exercise the powers as a result of the war, we have foregone the constitutional privilege which we might have exercised in requiring senatorial confirmation.

Mr. OVERTON. I should like to ask one other question, if the Senator will permit an interruption.

Mr. BARKLEY. I yield.

Mr. OVERTON. Under a strict interpretation of the constitutional provision the Congress must act affirmatively by expressly vesting the power of appointment, without requiring confirmation by it, in either the President or the heads of the various departments or the courts. Silence is not an express delegation of that power. It may be that we have never raised any objection and have permitted some of the heads of departments to appoint subordinate officers without raising objection on constitutional grounds, but the constitutional provision is rather clear:

* * * but the Congress may by law vest the appointment of such inferior officers as

they think proper in the President alone, in the courts of law, or in the heads of departments.

Mr. BARKLEY. I think it would require an affirmative act of Congress to vest in a court the power to appoint inferior officers, but when Congress enacts a general law giving general authority to the President—for instance, in a war emergency such as the one in which we now find ourselves—to create specific agencies set out in the law, or giving the President general authority to create such agencies as he may find necessary to set up for the successful prosecution of the war, the absence of any requirement that appointments should be confirmed by the Senate is the establishment by law on the part of Congress of the office, subject to the will of the President, in setting up the agency or in making appointments, without the requirement for senatorial confirmation.

Mr. OVERTON. In the instances to which the able Senator has referred the Congress does vest in the President the power to make the appointments, and thereby the Congress complies with the constitutional provision.

Mr. BARKLEY. Yes; that is correct. It is my contention that when Congress, without specifically mentioning the question of senatorial confirmation, vests in the President the power to set up an agency or to make appointments, even though the category of officers to be appointed is not set out in the law, that is a compliance with the Constitution, by the enactment of legislation authorizing the President alone to make the appointments, as the Constitution says.

Mr. OVERTON. I agree with the Senator from Kentucky that from the reading of the law it is clear that the intention of the Constitution is to vest in the President alone the power to make the appointments.

Mr. BARKLEY. I appreciate that statement on the part of the Senator from Louisiana, for whose legal opinion and for whose legislative ability, as he knows, I have profound respect.

I have read a list of 46 agencies in order to refresh our minds on the fact that the constitutional provision relative to senatorial confirmation is not at all mandatory. The last part of the provision specifically authorizes Congress to provide that the President or the courts or the heads of departments may appoint officers inferior to themselves, without the necessity for confirmation on the part of the Senate.

Ordinarily, I think it is true that there is a safeguard in senatorial confirmation. In peacetimes, when emergencies do not exist, and when we are not dealing with the great problems of industrial mobilization, rather than at a time such as the present when we must go out in search of the best possible material in order to do a job in a great war crisis, there is much force in the argument that the Senate should be allowed to look over the appointments. As we know, most of the appointments go through as a matter of routine, unless some Senator arises to object to an appointment either on the ground that the appointee is not qualified or on the ground that he has some personal objection to him because of the fact that he may be obnoxious to him. Otherwise, all the appointments go through as a matter of routine.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield to the Senator from New Mexico.

Mr. HATCH. On that point the Senator has said that the appointments usually go through as a matter of routine. With that statement I quite agree. However, is it not true, as a practical matter, and speaking frankly, that before a nomination is made for appointment to an office—a nomination which must be confirmed by the Senate—9 times out of 10 the Senators from the particular State first agree to the nomination?

Mr. BARKLEY. Yes; and I should say that in 99 cases out of 100 that is true.

Mr. HATCH. That is a subject on which I may elaborate later; I do not know yet.

When Senators from the States must first agree before a nomination is made, is not the Senate itself violating the Constitutional provision which reposes in the President the sole power to nominate?

Mr. BARKLEY. Probably so. That is a custom and a courtesy which has grown up.

Mr. HATCH. Mr. President, will the Senator yield again?

Mr. BARKLEY. I shall yield in a moment. First let me say that the practice to which reference has just been made is something of a courtesy which has grown up over a long period of years. When an appointee is to be named, and when the jurisdiction in regard to a Federal office applies only to a State the appointing authority—out of courtesy, I presume, and to assure that no serious objection will arise on the floor of the Senate to the confirmation—calls upon the Senator or consults him in some way to ascertain if the appointment is satisfactory.

Mr. HATCH. And if the Senators object, 99 times out of 100 the nomination is not made; and so, as a practical matter, the Senators are nominating.

Mr. BARKLEY. That is correct. The Senator does the appointing in cases of that sort.

Mr. HATCH. Yes—and clearly violates the spirit of the Constitution.

Mr. MALONEY. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield to the Senator from Connecticut.

Mr. MALONEY. The Senator from New Mexico has endeavored to point out that by the practice which he has described the Constitution is violated. I wonder if he wants us to believe that he is so naive as to suppose for a moment that the President himself actually makes the appointment of the appointees to inferior positions.

Mr. HATCH. Mr. President, certainly I hope I am not naive in the respect which the Senator has mentioned; but I was endeavoring to point out a condition which began with the first administration of this country, under President Washington. In drawing up the Constitution the intent was—and I can support the argument by quoting the statements of those who wrote the Constitution—that the President should have the sole power to nominate. After nomination, there comes into play advice and consent by the Senate.

However, since the first administration we have reversed the process; and the Senate is actually nominating, advising, and consenting.

Mr. BARKLEY. Whether that is a violation of the Constitution in terms may be open to debate. It is not such a case as the founding fathers had in mind when they wrote the provision that nominations should be submitted to the whole Senate and should be acted on by the Senate as a Senate. However, since that provision was inserted in the Constitution it has become customary, and it may have been a matter of some foresight and discretion on the part of appointing officers, to consult the Senators from the State concerned in order to ascertain whether the appointee contemplated was satisfactory to them and would not be objected to or rejected on the ground of dissatisfaction on the part of the Senators from the State.

Mr. MALONEY. Mr. President, will the Senator further yield?

Mr. BARKLEY. I yield to the Senator from Connecticut.

Mr. MALONEY. Mr. President, in the minds of some persons, a discussion such as the present one is likely to create the impression that Senators are primarily concerned from the standpoint of patronage; and there are many people who are anxious to add impetus to that thought; but the Senator from New Mexico must know that insofar as the kind of appointments to which we now refer are concerned, the President is really an instrument in the hands of officials in the bureaus and departments, who make the appointments, and that, in fact, the President does not make the appointments at all.

So, as I see it, the argument made by the able Senator from New Mexico is that the Senate should not be considered because it trespasses upon the rights of the President, but, on the other hand for agencies and bureaus to appoint inferior officers—and sometimes I think the appointments are made by inferior or mediocre men—is perfectly all right.

If the Senator from Kentucky will yield to me for a moment further, I should like to say another word or two in this connection. I think that if this amendment should do nothing more than compel the nominees to pass in review it would do a splendid thing, and we would thereby render a fine service to the Government.

I fail to find much self-restraint on the part of the new departments of government in the matter of keeping down appointments. It seems to me that they are anxious to make them, and I have long entertained the thought, and have on many occasions expressed it on the Senate floor that an amendment of this

kind might, instead of hampering the departments, help them a little. I am among those who believe that if the war agencies, or most of them, sent half their employees home the Government would function with a much improved efficiency.

Mr. HATCH. Mr. President, will the Senator from Kentucky yield to me, since the Senator from Connecticut has referred to what I said?

Mr. BARKLEY. I yield.

Mr. HATCH. I am not arguing against what the Senator from Connecticut has said at all. The point I was making was simply that the theory of the Constitution—and I have ample authority to sustain my view—is that nominations, in the first instance, should be made by the Executive. If made by some subordinate of his, it would still be by the Executive. The Senator speaks about the right of the Senate to review. That is guaranteed by the Constitution. As the Senator from Kentucky said, nominations are sent to the whole Senate. Suppose the Executive, where confirmation is required, sends to the Senate the nomination of a man whom the Senator from Connecticut does not like, he would have the right to oppose him. I am not now arguing the question whether there should be confirmation or not. I am trying to point out that, in the first instance, the nomination is with the Executive and throughout the course of the entire history of the country, since the first administration of President Washington, the Senate has reversed the process and has itself chosen to nominate.

Mr. MALONEY. Mr. President, will the Senator from Kentucky yield to me for a moment?

Mr. BARKLEY. Yes; I yield.

Mr. MALONEY. I should like to ask the Senator from New Mexico a question. Does he not understand that these nominations are actually made by heads of bureaus and not by the President?

Mr. HATCH. I suppose that is quite true.

Mr. BARKLEY. Of course, so far as that goes, the President is the instrumentality of the people to do everything he is required to do under the Constitution. It would manifestly be an impossibility, it would be a superhuman task for any President, however wise, however industrious, however well acquainted he might be with the country as a whole, to know everybody who ought to be appointed to a Government office, from a Cabinet officer all the way down to the various departments and agencies all over the country. Of course, he must accept the advice, for instance, of the Attorney General in making appointments of district attorneys and United States marshals all over the country. The President does not know the individuals; he must accept the recommendations of the Attorney General in regard to such appointments.

Mr. MALONEY. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. MALONEY. I think that is entirely true, and that is a part of the argument I made. I am sorry to have to say it again, but I am not concerned with patronage. I have advised the departments that they need not, and I should prefer that they would not, consult me in connection with appointments in my State. But I want to have the appointments passed in review here so that the Congress of the United States and the people of the United States may know how many are being appointed, and may have a chance to know what kind of people are being appointed, and how much they are being paid.

Mr. BARKLEY. I have no doubt of the sincerity of the Senator from Connecticut on that score, and yet if we rise here, as if in a Methodist "experience meeting," and proclaim loudly that we are not interested in patronage, the country is going to think the contrary, and the press will carry to the country the contrary opinion. We had that question before us in regard to the Office of Price Administrator. I well recall it because I was in the middle of the contest and many Senators wept on my shoulders about appointments made in their States by Leon Henderson, the Price Administrator. When the O. P. A. appropriation was before the Senate, and also when the last legislation with regard to the Price Administration was before the Senate, there was considerable discussion about offering a similar amendment to the price control bill or to the appropriation bill. Fortunately, it was not offered. I felt at that time, as I feel now, that we are in war, that the integrity and public esteem of the United States Senate is at stake, and I do not want the country to get the impression that the United States Senate, in the midst of a great war, when we have all that we can attend to in considering matters of importance and fundamental legislation, are fooling around in order that we may pass upon some appointments in our States, either in the Office of Price Administration or any other agency.

Mr. MALONEY. Mr. President——

Mr. BARKLEY. I yield to the Senator from Connecticut.

Mr. MALONEY. A part of my feeling in the matter is because of the fact that we are at war. I do not think that it will be won by appointing fraternity brothers, corporate politicians, and industrial refugees. It is because we are at war that I am principally concerned about the kind of people who are asked to direct the conduct of the war, and we are late, in my judgment, in meeting the responsibility with which we are charged.

Mr. BARKLEY. I do not know how many fraternity brothers have been appointed by the head of any department or the head of any agency; there might, conceivably, be a case where the head of a department or an agency who happened to know somebody in whom he had confidence would not turn him down if he happened to be a fraternity brother; but I would be unable to point out, if I were required to do it, any men who have been appointed to responsible office because they belonged to the same fraternity to which the man who made the appointment belonged; and I doubt very much if that is a fair assessment of the situation.

Mr. MALONEY. Mr. President, if the Senator will permit me, I should like to say that I used that language in a broad sense.

Mr. BARKLEY. I understand that, but it is the Senator's language, and it goes into the CONGRESSIONAL RECORD as a permanent part of the history of the United States.

Mr. MALONEY. I consider the Democratic Party a great fraternity. [Laughter.]

Mr. BARKLEY. Yes; though sometimes it does not act like a great fraternity, either in the Senate Chamber or outside the Senate Chamber.

Mr. OVERTON. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. MURDOCK in the chair). Does the Senator from Kentucky yield to the Senator from Louisiana?

Mr. BARKLEY. I yield.

Mr. OVERTON. Conceding for the sake of the argument that this is a scramble for patronage, the question that presents itself to me is, Is it a scramble for patronage by the 96 Senators of the United States, or is it a scramble for patronage by the heads of the different departments or agencies?

Mr. BARKLEY. I cannot tell the Senator to what extent in anybody's mind, whether he is a Senator or the head of a department, there is a scramble for patronage.

Mr. OVERTON. The able Senator from Kentucky said it was a scramble for patronage.

Mr. BARKLEY. I did not say that, but I said the country will get that opinion of it, and that is the view that will go out to the country.

Mr. OVERTON. Let us take the contrary view of it. Will the country think that it is a scramble for patronage by the Senate, by Senators, or that it is a scramble for patronage by department and agency heads?

Mr. BARKLEY. I will say that when a similar proposal was under consideration with respect to the Office of Price Administration the country thought it was a scramble for patronage, and there was such a protest against it the amendment was not even offered on the floor of the Senate.

Mr. OVERTON. If it is to be regarded as a scramble for patronage, shall we follow the Constitution, the makers of which vested that patronage, if it be called patronage, in the Senate of the United States, or shall we put it in control of the heads of departments and agencies?

Mr. BARKLEY. The Senator from Louisiana agreed with me that this provision of the Constitution was not mandatory.

Mr. OVERTON. I agree to that.

Mr. BARKLEY. And that we have the power, so that when we exercise it we are complying with the Constitution, just as if we required confirmation.

Mr. OVERTON. The primary obligation, under the Constitution, rests upon the Senate to give advice and consent with reference to these appointments, but we can vest the power exclusively in the heads of departments and in the President.

Mr. BARKLEY. Yes; I say we have the power to do it, and I thought the Senator had agreed with me.

Mr. OVERTON. I do agree with the Senator constitutionally, but I say if we get the agrument down to the basis of a scramble for patronage, then, I point out that the Constitution does vest the primary obligation in the Senate of the United States to give advice to the appointing power when it comes to making appointments, and we should not shirk that obligation simply because we might be subjected to criticism for discharging our constitutional duty. It does not become the duty of the President or the courts or anyone else to act without the advice of the Senate unless by law we vest that power elsewhere.

Mr. BARKLEY. Of course, the Senator from Louisiana is perfectly sincere in the entertainment of that view, and I would not hope that I could change his view if I talked until doomsday on the subject. I realize that probably what I am saying here will make no impression upon anyone in the Senate.

So far as I am concerned, the Senate is at liberty to do as it pleases with the amendment. I am not affected one way or the other. I have not requested any appointments under the O. P. A. or the O. E. M. or the W. P. B. or the W. X. Y., or any other war agency which has been set up. I washed my hands of it when the whole thing started and announced to my friends in Kentucky that I would make no recommendations, and I have not made any recommendations for any jobs under any of these agencies. I wish to say, further, that I have had more peace of mind since I made that announcement than I have had in a long time as a United States Senator.

Mr. OVERTON. Let me say that I am not concerned with the question as a matter of patronage. I was merely undertaking to answer an issue raised by the Senator from Kentucky. So far as patronage is concerned, I find myself in the same position as the Senator from Kentucky.

Mr. BARKLEY. I appreciate that. Of course, I would not doubt anything the Senator from Louisiana said about it.

Mr. McKELLAR. Mr. President, will the Senator from Kentucky yield?

Mr. BARKLEY. I yield.

Mr. McKELLAR. The Senator named a number of acts and stated that the officials provided for in the acts did not have to be confirmed by the Senate. The language of the Constitution is:

> But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

Will the Senator point to which one of the many acts he mentioned which vests the appointment of the officers in the President, or in the courts of law, or in the heads of departments?

Mr. BARKLEY. I would not go into the matter of courts of law——

Mr. McKELLAR. There is not——

Mr. BARKLEY. Let me answer the Senator's question. If he wants to answer it himself, what is the use of my attempting to do so? The Senator asked me a question and then answered it, and I am certain that his answer will be more satisfactory to him than mine will be. Nevertheless, my contention is that whenever Congress passes a law creating an agency, and authorizing the President to make appointments in that agency, and does not require senatorial confirmation, Congress by law vests the power in the President alone, and when Congress passes a general law, especially as we have been enacting laws during the war, authorizing the President to take such action as may be necessary, and the President sets up an agency under the general authority which he possesses, which Congress has not mentioned specifically, he has the power to make the appointments alone, without senatorial confirmation, and Congress has given its consent in advance to that course of action.

Mr. President, we are at war. We know that it has been necessary for agencies of the Government, the War Production Board, the War Labor Board, and others, to proceed in many cases to search the country for equipped and qualified men to do a given job. In order to find such men, the agencies have had to go beyond the category of those who have been active in politics; they have been required to go beyond what we term political applicants for jobs.

It would be easy to fill these places with men who are applicants for positions, because in every day's mail there come to us numerous applications for all kinds of appointments by men who, either because they have a bent for politics or because they need some sort of employment, are making application for political endorsements on the part of Senators, and for political influence, in order to get positions. It would be easy to fill all these positions with men who are active applicants, but in order to get the right kind of men, in order to take advantage of the professional and industrial experience of citizens of our country in private enterprise, it has been necessary to go out into the highways and byways and search out men, and persuade them, in many cases, to take positions under the Government, many of them without compensation, and in many cases with compensation out of all comparison with the compensation they receive in private enterprise.

Mr. PEPPER. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. PEPPER. I was wondering whether it is not a rather severe indictment of the Senate, which the Constitution vests with the power to advise and consent to appointments, to assume that even in time of war Senators could not take into consideration the merits of the recommendations made by the executive department, as they take into consideration the merits of recommendations made by the President as to appointments in the armed services of the country.

Mr. BARKLEY. Of course, I do not assume, and I would not assume, that if any Senator were directly and personally charged with the responsibility of selecting officials, he could not do a conscientious job of making the selections. But if we are to interpret the Constitution as meaning that every Senator from every State should be given the power of appointment, then we should change the Constitution, and provide that the President shall not nominate and the Senate confirm, but that each Senator from each State shall make appointments to Federal offices in his State.

It is my belief that that was not what the Constitution meant or means. If I were to go into a broad discussion of the combination of legislative and executive powers, there would be a fertile field for discussion in the question whether, under such a system, we maintain the three independent branches of our Government as established in the Constitution by the framers. But I do not, in saying that, of course, in any way impugn either the ability or the good faith or the patriotism of any Senator who might be called upon, as a matter of advice to recommend some person from his State for a Federal appointment, or who might be consulted as a matter of precaution and discretion on the part of the appointive power.

Mr. PEPPER. Mr. President, what I intended to advert to was that every few days in the Senate we pass on the confirmation of nominations of officers of the armed services, the Coast Guard, the Navy, and the Army. There is no charge that the recommendations of the President and the military chiefs are not made upon merit, and that they are not recognized by the Senate upon the basis of merit; and they are not interfered with by the Senate. Yet the Senate reserves the power, through its Committee on Military Affairs and its Committee on Naval Affairs, to scrutinize these nominations of officers in the Army, the Navy, the Air Corps, and the Coast Guard.

A short time ago, because a question arose as to whether the military authorities were violating a policy which the Senate might approve, a subcommittee was appointed, of which the distinguished junior Senator from Kentucky [Mr. CHANDLER] is the chairman, specifically to examine in great detail into the nominations of officers for the military services. There is perhaps power in the committee to repudiate an Executive recommendation, but in the course of war, and with respect to men recommended upon merit, no one would intimate that Senators would be so unworthy as to try to put political considerations above merit. That is one case where the power is preserved and not abused.

Mr. BARKLEY. I grant that, but I am not so certain of what would happen if Army officers were stationed permanently in our States and were engaged in politics. If they were attempting to exercise political influence—as they are not, and as they cannot, and which is a thing they should not be allowed to do—if Army officers could be placed in the category of ordinary political applicants for jobs, or men engaged in local politics who were indulging in trying to influence elections, I am not so certain that their nominations would go through as a matter of routine, as they do now.

Mr. PEPPER. Mr. President, the Senator, of course, is not going to condemn the judiciary of the United States, and yet the Senator knows that, as a practical matter, every Federal judge is recommended by the two Senators of the State in which he is to function.

Mr. BARKLEY. Yes.

Mr. PEPPER. However, if the Senator will allow me to continue the suggestion, no two Senators can compel the President to appoint the person whom they recommend, or compel the Department of Justice to admit that he has qualifications greater than he actually possesses.

Mr. BARKLEY. No; but any two Senators can prevent the Senate from confirming an appointee by rising in their places and saying that the appointment is obnoxious to them.

Mr. PEPPER. I know the Senator would not condemn the judiciary of the United States because of the existence or exercise of such power. It shows that we can have unanimity in public office by the combination of executive and legislative functions with respect to appointments.

Mr. BARKLEY. I am not denying that possibility, and have not denied it at any point. I am talking about an amendment, and I was trying to lay a basis for what I was coming to. We now have before us an amendment affecting the Manpower Commission, a commission which is nonpartisan, notwithstanding the animadversions of the Senator from Indiana yesterday, who intimated that, because this agency happens to be headed by Mr. Paul V. McNutt, who was at one time connected with some sort of a 2-percent political club in Indiana which was interested in levying and collecting a percentage of the salaries and wages of the employees of that State, under his wider authority he is likely to use this agency to build up a Nation-wide, if not a world-wide, 2-percent club designed to elevate him to the chief magistracy of the Nation.

I never approved of the 2-percent club in Indiana. I have never approved of any such club anywhere in the United States, and I have never approved of the levying and collection of tribute from employees of any State, or of the United States itself, in order to raise campaign funds in behalf of anybody.

All the appointments which come under the Manpower Commission, now headed by Mr. McNutt, must clear through the Civil Service Commission, and neither he nor anyone under him could levy 1 cent on any employee of the Manpower Commission without violating the act which was fostered and sponsored by the Senator from New Mexico [Mr. HATCH]. Therefore, we need not bother ourselves about the fact that Mr. McNutt, who was once Governor of Indiana, and was purported to be connected with a 2-percent club as a political organization of Indiana, is now head of the Manpower Commission, because, as I have said, all the appointments must be made and cleared through the Civil Service Commission, and no tribute could be levied upon a single one of them without an obvious and open violation of the Hatch Act.

Mr. HATCH. And not one of them could participate actively in politics.

Mr. BARKLEY. No.

Mr. HATCH. That is one of the things I had in mind, the encroachment of the governmental bureaus into political affairs. I wanted to stop it, and I think I have thrown a few chunks in the way. I should like to put in some more.

Mr. BARKLEY. I appreciate what the Senator has said. I helped the Senator throw in some of the chunks, and I do not intend to help remove any of them.

Mr. DANAHER. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. DANAHER. All I wanted to know, although it is somewhat irrelevant to the War Manpower Commission, is whether or not the Senator's denunciation extends, insofar as he makes reference to the Army and the Navy taking part in politics, to the Under Secretary of War, Mr. Patterson, and the Under Secretary of the Navy, Mr. Forrestal, coincidentally making speeches in the midst of the campaign?

Mr. BARKLEY. I have not been advised of any political speeches made by either of these distinguished gentlemen. One is a Republican, I know, and if he made a political speech it would be a Republican speech.

Mr. DANAHER. The Senator would expect and hope that in the interest——

Mr. BARKLEY. I have no expectation or hope about it one way or the other. I do not care whether he makes a political speech or not. I have not heard of him making one.

Mr. DANAHER. Well, if he did, would the Senator's denunciation extend to such speech?

Mr. BARKLEY. It would.

Mr. DANAHER. That is the way it struck me, and I would expect the Senator to say it would.

Mr. BARKLEY. Yes. I do not mean by that that we must all forego either the pleasure or duty of voting. We have an election coming on, and all of us are trying to urge people to vote, no matter whether they vote against us or not. We are urging them to vote, and that is a privilege and a right which we all ought to exercise. I presume everyone is still free in this country to exercise that right according to his or her own conscientious views. The Under Secretary of War, Judge Patterson, is a Republican, and I believe him to be one of the ablest and finest and most conscientious public servants in this country. I do not know of anyone who has established himself more completely in the confidence of the Congress and the country than has Judge Patterson. I would say the same thing about Mr. Forrestal, Under Secretary of the Navy, who worked his way through Princeton University by washing dishes, and graduated there with high honors, and was taken from a great business occupation and brought here to do his job in connection with the war.

Mr. DANAHER. Mr. President, will the Senator again yield?

Mr. BARKLEY. I yield.

Mr. DANAHER. The Senator will understand that I detract in no way from the status or stature of either of these gentlemen. All I was saying was that the Senator, in my judgment, properly had condemned and would condemn Army officers who sought to exercise the power and the might of some official position of theirs on people who were under them, and perhaps the families of those who were under them, and it might even be that the superiors of such officers would be brought within the scope of critcism on the same account.

Mr. BARKLEY. I certainly would include them if they were guilty of any such conduct. But I would say largely that my remarks are applicable to everyone to whom they apply.

Mr. DANAHER. And, of course, the Senator will understand that what I assert upon the record at this time is an equal degree of high principle, and I, too, call for the application of those very same abstract and pure theories which we all seek to have enacted in our daily lives, particularly in our political lives, and at a time like this when the country is going through stress and strain.

Mr. BARKLEY. I appreciate that, and I appreciate the sincerity of the Senator's observations on that subject.

Mr. CHANDLER. Mr. President, will my colleague yield?

Mr. BARKLEY. I yield to my colleague.

Mr. CHANDLER. I think that if my colleague were in possession of all the facts he would have made a different answer. My colleague had no objection, I am sure, when Mr. Stimson, Secretary of War, wrote a letter setting forth the fine qualities of the able Senator from Massachusetts [Mr. LODGE] before the primaries. Mr. Stimson is a civilian. What my friend, the Senator from Connecticut, now refers to is a statement by Under Secretary of the Navy, Mr. Forrestal, and Judge Patterson, Under Secretary of War, both civilians, who live in Representative FISH's district in New York. Both of them said the other day that they were not going to vote for Mr. FISH; that they were going to vote for his opponent, because in their opinion Mr. FISH's opponent was much better qualified and had a better idea of what was going on in the world than did Mr. FISH. So far as I heard, no objection was made to the Secretary of War, Mr. Stimson, setting forth the fine qualities possessed by the Republican Senator from Massachusetts. I do not object to a fine Republican like Judge Patterson calling attention to the fact that the candidate in New York who is trying to unseat Representative FISH has a better idea of what is going on in the world, what it takes to win the war, what it takes to support our leadership. The Under Secretary of War and the Under Secretary of the Navy are civilians. I think what they did was an obligation and a duty which they should perform. I do not think they should be censured for doing what they did. I know my colleague does not want to do so.

Mr. BARKLEY. Mr. President, I had for the moment lost sight of the fact that they had made statements with respect to Mr. HAMILTON FISH.

Mr. CHANDLER. Both gentlemen live in Mr. FISH's district.

Mr. BARKLEY. If the Under Secretary of War and the Under Secretary of the Navy should be condemned for a comment of that sort, then the Republican candidate for Governor of New York should likewise be condemned, for he has openly stated that he was opposed to Mr. FISH, and also the last Republican candidate for President of the United States, Mr. Wendell Willkie, should be condemned, because he has openly opposed the nomination of Mr. FISH, and has opposed his election in November. So I do not suppose that either Judge Patterson or Mr. Forrestal have departed from the path of rectitude to any greater extent than have Mr. Dewey and Mr. Willkie.

Mr. DANAHER. Mr. President, will the Senator yield?

Mr. BARKLEY. I yield.

Mr. DANAHER. I had not denounced either of the gentlemen mentioned by the Senator from Kentucky. I said that I would not detract in any way from the status or stature of either of these gentlemen when I referred to Messrs. Patterson and Forrestal. Does not the Senator from Kentucky recall that I made that statement?

Mr. BARKLEY. Yes.

Mr. DANAHER. And I should like to point out that neither of the gentlemen referred to by the Senator from Kentucky is an official of the Army or the Navy or an official of the War Department or the Navy Department.

Mr. BARKLEY. Neither is such an official, but they are anxiously waiting the time when they may become public officials.

Mr. President, I have consumed more time than I had intended to. I wish to say that the War Manpower Commission, which has been set up by the President, is functioning in regard to the difficult problem of manpower, one of the most important questions that faces the American people today. Very soon, in all likelihood, we shall be called upon to legislate on that subject, and partisan politics is of all things one which should not enter into the administration of any law with respect to the distribution of manpower.

Mr. President, I happen to know that the Manpower Commission is making a diligent effort to select the best men it can find in some 15 or 20 industrial areas of the country, and to get them to serve, regardless of politics, because of their wide experience and their long experience in dealing with the subject which they will have to deal with in the matter of manpower. I happen to know also that in many cases it is difficult to get such men to serve because they say, "If I have got to be dragged into politics, if I have got to have everything I have ever done or said or thought in my life paraded before a senatorial committee, I am not that much interested in the job."

Most of them are being asked to take these positions at a great financial sacrifice. That being true, it seems to me that we ought not to hobble or handicap the chairman of the War Manpower Commission, or any other agency that Congress may set up in their attempt to find, without regard to politics, men who have not been in politics, men who have not run for any office or applied for any office, who have been content to lead their lives in quiet and sequestered avenues of industry or professional life, without the glare and the glamor of the political life.

Mr. President, I certainly should hate to see any amendment offered, or any policy adopted by the Senate which would shoo away from public service outstanding men of that quality, who are now under consideration, and who may be induced as a matter of patriotic duty to serve the people of the United States in this capacity.

Mr. President, in conclusion I wish to read a letter which was addressed to me yesterday by the Chairman of the War Manpower Commission:

OFFICE FOR EMERGENCY MANAGEMENT,
WAR MANPOWER COMMISSION,
Washington, D. C., October 19, 1942.

Hon. ALBEN W. BARKLEY,
United States Senate,
Washington, D. C.

DEAR SENATOR BARKLEY: I regret that it is necessary to call your attention to the clause in the second supplemental national defense appropriation bill, which provides that no part of the appropriation for the War Manpower Commission "shall be available to pay the salary of any person at the rate of $4,500 per annum or more unless such person shall have been appointed by the President, by and with the advice and consent of the Senate."

The War Manpower Commission is in the process of recruiting field representatives to administer the entire manpower program in concentrated industrial areas. This is being done in accordance with the rules and regulations of the United States Civil Service Commission. It is our hope that we will be able to enlist the services of outstanding leaders in the ranks of industry and labor to assume the heavy responsibilities involved in this work. I greatly fear that the clause to which I have referred will unduly impede and delay the recruitment of the type of personnel we are trying to enlist in the Government service. I regard it as a matter of the utmost necessity that those responsible for the administration of a program which so affects the lives and welfare of millions of our people, be selected with a view to nothing except their technical ability, experience, and impartiality.

I sincerely hope that the clause in question will be deleted before the bill is enacted.

Sincerely yours,
PAUL V. MCNUTT, *Chairman.*

Mr. President, that is all I have to say upon this subject. I have done what I regard as my duty to the Government of the United States—to the people of the United States. The duties in this matter which are necessary to be performed by the War Manpower Commission in the months which are ahead of us may be infinitely more vital and may affect more intimately the lives of our people, the war effort, and production on farms and in industries and everywhere else, than they are now. The Senate of course is at liberty, as I said awhile ago, to act as it sees fit upon this amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 17, after line 19.

Mr. HATCH obtained the floor.

Mr. NORRIS. Mr. President——

Mr. HATCH. I yield to the Senator from Nebraska.

Mr. NORRIS. Mr. President, I shall try to view this question from a practical standpoint. It seems to me that Senators and Members of the House of Representatives who have been in Congress for years cannot close their eyes to this important step. I realize that, in theory at least, those on both sides of this question have very good grounds for their beliefs, and I do not criticize any Senator for his beliefs; but, as a matter of experience, I believe we cannot close our eyes to the fact that if we adopt this amendment, which I understand is to give to the Senate the right of confirmation with respect to all appointed officials of the Manpower Commission who receive $4,500 a year or more, in practical effect by that action we shall be turning the appointments over to patronage.

I have heard Senators—among the number my good friend from Connecticut—say that they did not want this patronage, but wanted to stay away from it. That sentiment has been voiced and confirmed by many other Senators, including the Senator from Kentucky. However, if we require confirmation by the Senate of appointments to the thousands of offices which will be created we shall take upon ourselves the duty of looking into the appointments, and we shall consume a vast amount of time. In making recommendations we shall follow the natural inclination to put our own friends into office.

In effect the amendment would turn over appointments to these offices to Members of Congress. I do not believe that anybody desires that to be done. It would become the duty of a Senator who wished to get out from under the patronage yoke to take that yoke upon his unwilling neck. He could not escape it. It would become a part of his duty. In the main, Members of the Senate would decide who the nominees should be. Nominations in the various States would undoubtedly be referred to Senators from the States. That is but natural. It has always been so. The result would be that, instead of referring appointments to the President, to the heads of departments, or to the courts, we should be referring them to ourselves. We should be called upon to make recommendations; and if our recommendations were not followed the Senate would be called upon to reject them, regardless of the qualifications or experience of the appointees.

Mr. President, it seems to me that if we wish to relieve Members of Congress from the yoke of patronage the only way to do so—or at least one way, and I know of no other way—is not to require confirmation of the many appointments with respect to which we should be called upon to make recommendations.

As I said before, we cannot escape the effect. We shall be doing the same thing in practice as though we amended the Constitution by providing that the appointments should be made by Members of the Senate and of the House. I do not believe anyone wants that done. The President cannot look into each and all of the appointments. Everyone knows that to be so. Of course, I realize that in many cases the President will be advised

by men who are not able to give him the proper advice, and there will be a great many cases in which the result will be as bad, perhaps, as it would have been if the nomination had come to the Senate. However, we should be a legislative body. We should not, it seems to me, be interested in patronage. I have lived so many years without it that I think I can speak from my own experience. I believe that in the end the bill as written without the amendment will be better for the country. It comes nearer to having the appointments made on the basis of merit and efficiency than would be the case if we adopted the amendment.

Mr. President, as I am about to leave the Chamber temporarily, I desire to thank the Senator from New Mexico for yielding to me so that I might make these few remarks.

Mr. HATCH. Mr. President, I shall detain the Senate for only a few moments while I discuss some of my theories about the constitutional powers with respect to appointment and confirmation. Before doing so I wish to say that I agree with the majority leader in what he has just said, that it would be most unfortunate if the Senate by its action today should give the impression to the public, rightly or wrongly, that we are more concerned with securing unto ourselves the power of appointing men to office than we are with the great war program.

I grant, Mr. President, that that would be the wrong impression. If the Senate should adopt this amendment—which it probably will—I am sure, as a Member of the Senate, that no such motive would inspire any Member of this body; but I am equally sure that the country would arrive at no other conclusion than that which I have suggested. I do not want the country to believe that of the Senate. That is my main reason for opposing this particular amendment.

Senators may argue the Constitution if they so desire; and I grant that the Constitution does give the Senate the power and the right to confirm the appointment of certain officials. I grant more than that. As the Senator from Louisiana pointed out, affirmative action on the part of the Senate may be required to divest itself of that right and power; but there are times when men, bodies, and institutions should forego their own particular prerogatives and rights in the interest of the common good.

Differences between the Senate and the Executive over nominations, appointments and confirmations, began with the administration of President George Washington. I have some attachment for the Constitution and constitutional processes, which caused me some years ago to make a study of this particular question. In a history of the appointing power of the President, Lucy M. Salmon writing for the American Historical Association, said that the framers of the Constitution were led by three considerations to give the appointing power the form it took in the Philadelphia Convention.

> First, by the observation of the English method. Second, by their own experience under the Articles of Confederation. Third, by the principles in operation in the individual States.

The question before the Convention, says this author, was how to embody all the excellencies and avoid all the evils of the various systems with which they were familiar. The author discusses three plans which were submitted for the consideration of the Convention, and a fourth, which was not formally presented, and, in substance, says that the Virginia resolutions drawn by Mr. Randolph provided that the Executive and the judiciary should be chosen by the National Legislature, but made no specific provision for appointment of officers except that the President was to enjoy the executive rights vested in Congress by the Confederation.

The New Jersey plan offered by Mr. Patterson provided that the executive office should be held by two or more persons who should be given power to appoint all Federal officers. These persons were to be elected by Congress. Mr. Charles Pinckney's plan provided that the executive power was to be vested in a single person who was to appoint all officers of the United States except ambassadors, other ministers, and judges of the Supreme Court. His nominations were to be with the consent of the Senate, and the Senate was to have executive power to appoint the excepted officers. Members of the Senate were to be ineligible to office during their terms of service and for 1 year thereafter. The fourth plan, Mr. Hamilton's, gave to the Executive the sole appointment of heads of departments of finance, war, and foreign affairs, and the nomination of all other officers, including ambassadors, subject to the approbation or disapproval of the Senate.

The difference in the plans and the discussion which followed revolved largely around the point as to whether the appointing power should be given exclusively to the President, to the legislative branches of Government, or to both, one acting as a check or restraint on the other. The question was not settled.

In the first draft of the Constitution, the power was given to the President to appoint officers in all cases not otherwise provided by the Constitution. No advice or consent from the Senate was required. But in that draft the power to appoint ambassadors and judges of the Supreme Court was vested in the Senate. Finally, section 2 of article 2 of our Constitution was adopted as an amendment.

> He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

Without question, the framers of the Constitution believed that they had selected the best plan, and one which would avoid the evils of previous systems with which they were familiar, although the plan adopted did not meet with unqualified approval of those responsible for our Constitution. Mr. Madison was a strong believer in sole Executive authority. John Adams vigorously opposed giving the Senate any voice in appointments. Very early after the adoption of the Constitution, questions surrounding the appointing power began to arise; questions involving the right of removal, where such right was vested, the right to create offices by appointing officials, the right of Congress to prescribe the tenure or duration of office, and other questions, all growing out of the constitutional provision relating to the appointment of officers.

Mr. President, the Senator from Nebraska has said much better than I could have said many of the things which have gone through my mind concerning this question.

I assure Senators that I shall not read at great length from the many authorities which I have before me on the subject, but I should like to present briefly to the Senate what I believe to have been the real theory of those who wrote the Constitution. I know of no better words to express it than those of Alexander Hamilton, who, in discussing this very clause of the Constitution, said:

> It has been observed in a former paper that "the true test of a good government is its aptitude and tendency to produce a good administration." If the justness of this observation be admitted, the mode of appointing the officers of the United States contained in the foregoing clauses must, when examined, be allowed to be entitled to particular commendation. It is not easy to conceive a plan better calculated than this to promote a judicious choice of men for filling the offices of the Union, and it will not need proof that on this point must essentially depend the character of its administration.

In arguing the wisdom of placing the nominating power in the President—and I call attention to that argument—Hamilton stressed the point that sole and undivided responsibility of one man would beget a livelier sense of duty, that one man would have fewer personal attachments to gratify than a body of men and would be less likely to be misled by sentiments of freindship and of affection.

On the other hand, he said that, in the exercise of an appointing power by an assembly of men, there would be displayed private and party likings and dislikings, partialities and antipathies, attachments and animosities.

I ask the Senate to listen to the reasoning and to observe whether Hamilton was not foreseeing exactly what has taken place by having appointments discussed by a body of men:

In an assembly of men, he urged, the intrinsic merit of the candidate would be too often out of sight and "the qualifications best adapted to uniting the suffrages of the party will be more considered than those which fit the person for the station. In the last, the coalition will commonly turn upon some interested equivalent. 'Give us the man we wish for this office, and you shall have the one you wish for that.'"

Those were the observations of Alexander Hamilton in stating why the ap-

pointive power should not be vested in an assembly of men.

I continue the quotation:

This will be the usual condition of the bargain, and it will rarely happen that the advancement of the public service will be the primary object either of party victories or of party negotiations.

It was contended by many, Hamilton says, that the President alone should have been authorized to make appointments under the Federal Government, to avoid the difficulties and the tendencies which would come with appointments by an assembly of men. Pointing out that several disadvantages might attend the absolute power of appointment in the hands of the Executive alone, he argued that in the act of nomination, the power conferred by the Constitution, the advantages of sole Executive authority would be retained in that the act of nominating would be the judgment of the Executive alone. It would be his sole duty to point out the man who, with the approbation of the Senate, should fill the office. His responsibility would be as complete as if he were to make the final appointment.

Thus, Hamilton contended, the best features of executive authority alone would be retained. Even though, he points out, the person nominated should be rejected by the Senate, the President would only be required to nominate another person. Eventually, the person ultimately appointed would be the choice of the President, perhaps not in the first degree, but, nevertheless, the preference of the Executive.

He continues with much interesting argument along the same line as that of the arguments which Justice Story and other writers and commentators on the Constitution noted, all of whom pointed out the fact that the power of nomination is in the President, vested in him by the Constitution, and that the power to confirm is in the Senate.

Mr. President, if that theory of the Constitution had been followed, if that theory existed today, I should be on the floor of the Senate supporting the amendment offered by the Senator from Tennessee. If the President were permitted to make the choices as the Constitution contemplated, and if the Senate confined itself to the real act of consenting and advising as to the merits and the fitness of the persons chosen by the Executive, I should not say a word.

However, Mr. President, I know something about the history of the matter and about how political appointments, which are required to be confirmed by the Senate, are made. I reveal no secret when I say that persons so nominated are not nominated by the President. When their appointments have to be confirmed by the Senate, the Senators from the States concerned actually nominate. If their choice is not accepted, what happens? The Senate does not confirm the appointment. That is the practical situation which exists today.

I am as particular about and as jealous of the prerogatives of the Senate as is any other Member of this body, but I should like to confine the Senate to its prerogatives. If the Senator from Tennessee will write into his amendment a provision that the nomination shall be made by the President, and by him alone, and that the Senate shall confine itself to the real act of confirmation, I shall not have a word to say. However, I know that cannot be done. I know that it will not be done. I know that if the proposed amendment is written into the bill the Senators will, in effect, nominate and will appoint every official who receives more than $4,500.

I do not know why the mystic number $4,500 is chosen. If the proposal is right as to one, it should be right as to all.

I return to my first statement: Mr. President, more than anything else I am concerned with upholding the prestige and the dignity of the Senate before the people of the United States. I am opposed to the amendment because I know that if it be agreed to, the people of the country will believe that we as Senators are more concerned with jobs we can get for our constituents, perhaps to help to perpetuate ourselves in office, than we are with the war effort. That would be a wrong conclusion, as I said before, and I repeat the statement; but, wrong though it may be, that is what the people of the country will believe if the amendment be agreed to.

Mr. CHAVEZ. Mr. President, I shall have very little to say with respect to the pending amendment. I dislike very much to disagree with my colleague regarding the reasons for the amendment and the results which will follow if the amendment is agreed to.

My colleague read some excerpts from articles written by Alexander Hamilton in the early days of the Republic. Any one who knows history understands that very few of the theories of Alexander Hamilton were followed or adopted as a matter of policy by the people of the country. I, for one, prefer to follow the political philosophy of Thomas Jefferson. Certainly his philosophy has been written into the history of our country.

Irrespective of political philosophy, I call attention to only one statement which was made by my colleague. Toward the conclusion of his remarks he said that if the amendment were agreed to the country would feel that the Senate was interested in politics. I, for one, disagree with my colleague.

It was only 2 or 3 days ago that the Senator from Kentucky, our beloved majority leader, arose in his place and defended the Senate from abuse and attack which had appeared in a national magazine. To my mind, more is involved in the amendment than the mere fact that the Senate would pass upon the qualifications of persons who might be appointed by some departmental head. I think that the dignity of the Senate is involved.

The reason why the Senate has lost face with the country is because it does not dare express its desires in matters as to which it knows it should express them, for just so soon as a newspaper or magazine makes some comment, we become scared and do not defend the dignity of the body. Why should the head of any department in Washington insist that he is more competent to pass judgment upon the capabilities of an individual who might be appointed to an office than is a Senator? Why is it that just so soon as the committee reports an amendment such as this, immediately the Senate is accused of being dishonest and of attempting to play politics? Why should the Senate be accused of playing politics when it does its duty, while when the head of a department, even though he might be running for the office of President of the United States, makes appointments he is honest and is not playing politics? What makes the head of a department different from Senators? At least, Senators have gone before the people of their States; they have faced the electorate and have been passed upon. The people of their States sent them here after passing judgment as to whether or not they were capable of discharging the responsibilities of the office to which they were elected.

What I complain of is that just so soon as the Senate undertakes to perform its constitutional duty immediately the cry of "patronage" is raised, but if the head of a department makes appointments he is not accused of using patronage in order to get votes, say, for 1944. The accusation could as well be made against him.

It is taken for granted that the head of a department, if the law says he shall do the appointing, will use his best judgment and will act honestly, but just so soon as a Senator is called upon to pass upon such a matter, he is playing politics and is dishonest and cannot tell an honest and capable man as well as can a two-by-four clerk in a particular department.

Mr. President, I shall vote for the amendment.

Mr. McKELLAR. Mr. President, I shall take but a few moments, because the pending question has been amply and ably discussed on both sides.

I wish again to call attention to the constitutional provision.

He-

Meaning the President—

shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law—

Then, there is a semicolon and the following language:

But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

That, however, is not all.

I have the greatest respect for the opinions on constitutional law of my good friend the Senator from Louisiana [Mr. OVERTON]. He said he thought that this was not a mandatory provision. I wish to call his attention to the next paragraph:

The President shall have power to fill up vacancies that may happen during the recess

of the Senate, by granting commissions which shall expire at the end of their next session.

So careful was the Constitutional Convention to hedge the appointment of officers of the Government by officials of other departments, except where Congress alone vested the power in the hands of the President, the courts of law and the heads of departments, so careful was it that appointments should be made by and with the advice of the Senate that it provided that an officer who is appointed by the President during a recess of the Senate should continue to hold office only until the expiration of its next session.

Mr. MAYBANK. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. MAYBANK. Mr. President, I wish to state that as a member of the Appropriations Committee I voted for the amendment in committee and propose to vote for it in the Senate today. I desire, however, to call the attention of the distinguished Senator from Tennessee to a statement appearing on page 59 of the Senate hearings on Senate bill 2748. General Hershey was asked if there were not needless employees in Government offices which were not defense agencies and if he could not draw on that reservoir. His reply was:

> I am a very bold soul when I get into this. I think there are something like 5,500,000 in the United States, in the Federal, the State, county, city, and township that are employed by these different agencies, and I say that is a luxury that we cannot afford in the war. I am not an expert on government, I do not know just how you are going to squeeze them out, but I am afraid you are going to have to.

Mr. President, like the Senator from Tennessee, I am not interested in patronage and I hope that the Selective Service System will be called upon to do the necessary work as the Senator from Vermont [Mr. AUSTIN] stated this morning.

I am certain that if a survey is made it will be found that men now in the Government service can carry on the work and in this way not increase the number of Government employees, which General Hershey says is now far too great and not add to the Federal pay roll.

I am not interested in any political appointments for any war positions, and I am certain that if a survey is made it will not be necessary to send to the Senate any names for confirmation except those now in the employ of the Government.

Mr. McKELLAR. I thank the Senator.

This proviso applies only to officers whose compensation is more than $4,500 a year. I have taken the trouble to look up what members of the Cabinet received immediately after the provision of the Constitution was framed by the constitutional forefathers and the Government was established. I find that none of them received quite $4,500 a year. At that time the Secretary of State was paid $3,500; the Secretary of War $3,000, the Secretary of the Treasury $3,500. It was not until 1873 that the head of the Post Office Department received $3,500. The Department of Justice, presided over by the distinguished Edmund Randolph, received only $1,500. The Chief Justice of the United States got only $4,000, and the Associate Justices at first received $3,500 and later on their compensation was increased by $1,000.

So we can see what our forefathers determined.

I was rather struck by a statement made by my distinguished friend from Kentucky [Mr. BARKLEY], whom I admire very much, when he said the Senate ought to be allowed some voice in naming certain officers. Mr. President, the Senate is not only allowed to have a voice but is directed to do so. We get our authority as does every other person connected with the Government, from the Constitution, and we get it from nowhere else.

Mr. OVERTON. Mr. President, will the Senator yield?

Mr. McKELLAR. I yield.

Mr. OVERTON. The able Senator from Tennessee has referred to an observation I made in a colloquy with the Senator from Kentucky.

Mr. McKELLAR. Yes.

Mr. OVERTON. I do not think the Senator from Tennessee and I are apart on the interpretation of the Constitution.

Mr. McKELLAR. I am sure we are not.

Mr. OVERTON. And I do not think the Senator from Kentucky and I are apart on it. I think the constitutional provision is amply clear.

Mr. McKELLAR. It is not only clear but is mandatory.

Mr. OVERTON. I said the primary obligation devolves upon the Senate to give advice and consent. It can waive it, but it must do so by law.

Mr. McKELLAR. Yes, by law.

Mr. OVERTON. And vest the power in someone else, to wit, the President alone, or the heads of departments, or the courts.

Mr. McKELLAR. I was about to come to that.

Mr. OVERTON. Constitutionally, we can give the power of appointment.

Mr. McKELLAR. Oh, yes; as to inferior officers.

Mr. OVERTON. In that sense there is no constitutional question involved. We can exercise the power or we can surrender the power.

Mr. McKELLAR. The distinguished Senator From Kentucky I think cited 46 acts in which there was no provision requiring confirmation. That is true, but in none of those acts, I am informed—I cannot say with accuracy, because I have not examined them all—is there a vesting of power by act of Congress either in the President, or in the courts of law, or in the heads of departments. Without such provision the appointments would come within the provision requiring confirmation by the Senate. In my judgment, if the point were ever made, all those appointments would have to come before the Senate for confirmation.

Mr. President, let us look at the particular set-up about which we are debating, the War Manpower Commission. I happen to be looking at the junior Senator from Texas [Mr. O'DANIEL], away over on the other side of the Chamber. So far as the officials who are to serve in the State of Texas are concerned, the head of the War Manpower Commission might make the appointments from the State of Illinois, from the District of Columbia, from the State of Tennessee, or from any other State. I cannot say that it would be under the law, but under his interpretation, he appoints whom he pleases, from where he pleases, to what he pleases, paying such salary as he pleases, and asking no one.

I ask, is that good government? Would Senators like to have their private affairs conducted in that manner? Is it possible that the Senate of the United States at this time, particularly, in the condition in which our country finds itself, desires to turn over to one man, without let or hindrance, without opportunity for anyone to review his judgment, such power of appointment? Of course, we all know that our good President does not have the time to look into such matters. I doubt if he knows who will be Mr. McNutt's appointees. He may make the appointments from anywhere in the world, and send the appointees to any State whatever. There is no let or hindrance about it. Is that good government?

Is that going to lead us to disregard what I believe to be our duty under the Constitution? The Constitution is specific and perfectly clear. There cannot be any doubt about what it means. It means that we have a duty. Otherwise, we will have to give the President, or the courts of law, or the heads of departments, the power.

Let us take the instant case. Mr. McNutt is not the head of a department. The term "head of a department" has a distinct meaning. Heads of departments are members of the Cabinet. We all know that to be so. However, Mr. McNutt, head of the Manpower Commission, was appointed during the war under a peculiar set-up. He is not the head of a department, he is not a member of a court, and he is not the President of the United States. Under those circumstances how could any one merely turn the authority over to him?

I am not reflecting on Mr. McNutt. So far as I know he is a very fine gentleman. I have no criticism to make of him. I imagine he wants to do his duty just as we want to do ours. But under the Constitution we have no power to give him authority even if we provided for it in the pending measure. We could not give him the authority because the law limits it to the President of the United States, the courts of law, and the heads of departments. Mr. McNutt is not any one of them.

Mr. President, under those circumstances it seems to me that there can be but one answer to the question. The Committee has gone over this matter very carefully. It has studied it time and again. We are responsible if we do not do our duty under the law, as I look at the matter, and I hope the proposed amendment will be agreed to.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Aiken	Gerry	Pepper
Andrews	Gillette	Radcliffe
Austin	Green	Reed
Bailey	Guffey	Reynolds
Ball	Gurney	Rosier
Barbour	Hatch	Russell
Barkley	Hayden	Schwartz
Bilbo	Hill	Shipstead
Bone	Johnson, Calif.	Smathers
Brewster	Kilgore	Spencer
Bulow	La Follette	Thomas, Idaho
Bunker	Langer	Thomas, Okla.
Burton	Lee	Thomas, Utah
Butler	McFarland	Tobey
Capper	McKellar	Tunnell
Caraway	McNary	Tydings
Chandler	Maloney	Vandenberg
Chavez	Maybank	Van Nuys
Connally	Mead	Wagner
Danaher	Murdock	Wallgren
Davis	Norris	Walsh
Downey	Nye	Wheeler
Doxey	O'Daniel	Wiley
Ellender	O'Mahoney	Willis
George	Overton	

The PRESIDING OFFICER. Seventy-four Senators having answered to their names, a quorum is present.

The question is on agreeing to the committee amendment on page 17, line 20.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment of the committee.

The next amendment was, under the heading "Independent Executive Agencies—Federal Security Agency," on page 19, after line 1, to insert:

COLUMBIA INSTITUTION FOR THE DEAF

For an additional amount for the Columbia Institution for the Deaf, fiscal year 1943, including the objects specified under this head in the Labor-Federal Security Appropriation Act, 1943, $4,500.

The amendment was agreed to.

The next amendment was, under the subhead "Interstate Commerce Commission", on page 22, after line 17, to insert:

The limitation of $5,000 on the amount which may be expended from appropriations made to the Interstate Commerce Commission for transfer of household goods and effects appearing under this head in the Independent Offices Appropriation Act, 1943, is hereby increased to $20,000.

The amendment was agreed to.

The next amendment was, under the subhead "National Housing Agency," on page 23, line 3, after "(54 Stat. 1115)", to strike out "$500,000,000" and insert "$600,000,000."

The amendment was agreed to.

The next amendment was, on page 23, after line 10, to insert:

THOMAS JEFFERSON BICENTENNIAL COMMISSION

For carrying out the provisions of the act entitled "An act to enable the United States Commission for the Celebration of the Two-hundredth Anniversary of the Birth of Thomas Jefferson to carry out and give effect to certain approved plans," approved July 30, 1942, $50,000, to remain available until expended.

The amendment was agreed to.

The next amendment was, under the heading "Department of Agriculture", on page 25, after line 12, to insert:

FOREST SERVICE

SALARIES AND EXPENSES

Forest products: Not to exceed $30,000 of the appropriation for experiments, investigations, and tests of forest products at the Forest Products Laboratory, or elsewhere, contained in the Department of Agriculture Appropriation Act, 1943, shall be available for the acquisition of additional land adjacent to the present site of said laboratory at Madison, Wis.

Mr. LA FOLLETTE. Mr. President, my only reason for detaining the Senate a moment before the amendment is disposed of is to place in the RECORD a statement indicating the urgent necessity for its adoption. It was included by the Senate in the first supplemental appropriation bill on a Budget estimate, but it was disagreed to in conference.

The amendment proposes only to permit the Forest Products Laboratory at Madison, Wisconsin, to utilize $30,000 of its existing appropriation for the purpose of acquiring certain land which is absolutely essential in carrying forward the programs which have been assigned to the laboratory by the War and Navy Departments, as well as various defense agencies. The situation is such at the present time that they cannot accommodate the persons who are being sent there by the Army and the Navy for training.

Mr. President, I wish to make perfectly clear that the pending amendment does not involve any increased appropriation for the Laboratory, but simply the right to use $30,000 of the money already appropriated to purchase this land. If permission is granted in the statute, then they will be able to move some of the Civilian Conservation Corps buildings which are now vacant to land adjacent to the laboratory, and there house the persons who have been sent by the Army and Navy to be trained by the laboratory for this type of training, which it is particularly qualified to give.

Mr. President, I hope that the conferees will be successful in holding this amendment in the bill.

As a part of my remarks, I ask unanimous consent to have the communication from the President of the United States in connection with this amendment incorporated in the RECORD at this point.

There being no objection, the communication was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, October 10, 1942.

The PRESIDENT OF THE SENATE.

SIR: I have the honor to transmit herewith for the consideration of Congress a draft of a proposed provision affecting an appropriation for the fiscal year 1943.

The details of the proposed provision, the necessity therefor, and the reason for its transmission at this time are set forth in the letter of the Director of the Bureau of the Budget, transmitted herewith, with whose comments and observations thereon I concur.

Respectfully,

FRANKLIN D. ROOSEVELT.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., October 10, 1942.

The PRESIDENT,
The White House.

SIR: I have the honor to transmit herewith for your consideration a draft of a proposed provision to authorize the acquisition, by the Forest Service of the Department of Agriculture, of additional land for the forest-products laboratory at Madison, Wis. The item is as follows:

"FOREST SERVICE

"SALARIES AND EXPENSES

"Forest products: Not to exceed $30,000 of the appropriation for experiments, investigations, and tests of forest products at the forest-products laboratory, or elsewhere, contained in the Department of Agriculture Appropriation Act, 1943, shall be available for the acquisition of additional land adjacent to the present site of said laboratory at Madison, Wis."

This provision was included among several supplemental estimates of appropriations transmitted to you under date of June 2, 1942, and by you to Congress on June 3, 1942 (H. Doc. No. 764). Although considered in connection with the first supplemental national defense appropriation bill, 1943, it was not included therein when the bill was enacted.

The requested authorization is again submitted because of the more critical situation which has developed at the Madison laboratory during the past few months. The facts upon which the first submission was based still exist, and in addition thereto, the laboratory has been called upon to provide space for 150 to 160 inspectors detailed from various branches of the Army and Navy for training at the laboratory. Under plans proposed by the Army and Navy this number will reach 200 to 300 in the near future. Classroom space for these trainees is available neither at the laboratory nor at the University of Wisconsin. Nor is there hotel space in Madison to accommodate the additional numbers who will come to the laboratory for these courses. Provision will be made to have abandoned Civilian Conservation Corps buildings moved to the land to be acquired to serve for quarters and classrooms and to provide for needed additional storage facilities.

Acquisition of the property proposed for purchase is urgently necessary to meet the present critical situation caused by the expanded war program and, I am informed, is strongly recommended by the War Department. It will provide, also, for the future land requirements of the research program at this laboratory.

The foregoing proposed provision is made necessary by reason of contingencies which have arisen since the transmission of the Budget for the fiscal year 1943. I recommend that it be transmitted to Congress.

Very respectfully,

HAROLD D. SMITH,
Director of the Bureau of the Budget.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 25, after line 12.

The amendment was agreed to.

The next amendment was, under the heading "Department of Commerce", on page 27, after line 1, to insert:

The appropriations of the Civil Aeronatics Administration and the Weather Bureau contained in the Department of Commerce Appropriation Act, 1943, available for travel, shall be available for the travel expenses of appointees of said agencies from the point of engagement in the United States to their posts of duty at any point outside the continental limits of the United States or in Alaska.

The amendment was agreed to.

The next amendment was, under the heading "Department of the Interior", at the top of page 28, to insert:

GOVERNMENT OF THE TERRITORIES

TERRITORY OF ALASKA

Care and custody of insane, Alaska: For an additional amount for care and custody of

persons legally adjudged insane in Alaska, fiscal year 1942, including the objects specified under this head in the Interior Department Appropriation Act, 1942, $1,500.

The amendment was agreed to.

The next amendment was, on page 28, after line 7, to insert:

Construction of Palmer-Richardson Road, Alaska (national defense): For an additional amount to complete construction of the Palmer-Richardson Road, Alaska, $500,000, to remain available until expended, and the limitation of $1,800,000 upon the total cost of such work contained in the Third Supplemental National Defense Appropriation Act, 1942, is hereby increased to $2,300,000.

The amendment was agreed to.

The next amendment was, under the heading "Department of Justice," on page 28, after line 15, to insert:

OFFICE OF THE ATTORNEY GENERAL

Printing and binding: For an additional amount for printing and binding for the Department of Justice, $225,000.

The amendment was agreed to.

The next amendment was, under the heading "Treasury Department—Office of the Secretary," on page 29, after line 11, to insert:

Expenses of absentee voting by members of the land and naval forces: To enable the Secretary of the Treasury to make payments to States as provided by Public Law 712, approved September 16, 1942, entitled "An act to provide for a method of voting, in time of war, by members of the land and naval forces absent from the place of their residence," the checks in payment thereof to be drawn in such form as may be requested by the Secretary of State or other duly authorized official of each State, $1,200,000, of which not to exceed $5,820 may be expended for all salaries and expenses of the Treasury Department in the District of Columbia necessary therefor.

The amendment was agreed to.

The next amendment was, under the heading "War Department," on page 32, after line 18, to insert:

MILITARY ACTIVITIES

OFFICE OF THE SECRETARY OF WAR

Claims for damages to and loss of private property: To pay claims for damages adjusted and determined by the Secretary of War under the provisions of an act entitled "An act making appropriations for the support of the Army for the fiscal year ending June 30, 1913, and for other purposes," approved August 24, 1912, as fully set forth in Senate Document No. 252, Seventy-seventh Congress, $1,567.

The amendment was agreed to.

The next amendment was, under the subhead "Civil Functions—Corps of Engineers," on page 33, line 14, after the word "the" where it occurs the first time, to strike out "work of enlargement of the present Intracoastal Waterway from the vicinity of Apalachee Bay to Corpus Christi, Tex., in accordance with the provisions of" and insert "navigation projects authorized by."

Mr. OVERTON. Mr. President, I regret that yesterday, when this particular amendment came up for some discussion on the floor of the Senate, I was not present. I was here during most of the afternoon, but I happened not to be here when the Senator from Michigan [Mr. VANDENBERG] asked for some information with respect to the amendment, and I was not here just before the close of the session when the Senator from Florida [Mr. PEPPER] discussed it.

I wish to say as a Senator from Louisiana that I have no particular interest in this amendment, except to see that the existing Intracoastal Coastal Canal between Corpus Christi and Apalachee Bay is developed by increasing its depth and increasing its width.

Mr. President, I had occasion not long ago to traverse a portion of this intracoastal canal from New Orleans to the Vermillion River, and I was agreeably surprised to see the vast amount of traffic upon the canal. I think I can say without exaggeration that not 15 minutes elapsed, on an average, between the passage of tows carrying freight. Most of the freight was oil from the oil fields of Texas, winding its way along the intracoastal canal to the Mississippi River, and then on up the Mississippi River to the Baton Rouge refinery, and from there going on up to the Ohio River, where the oil is transported to relieve the situation in the East. So what I am interested in is seeing that this intracoastal canal is properly developed to take care of this increasingly tremendous traffic.

Mr. President, there are abrupt bends in the intracoastal canal, as it now exists, which should be to some extent eliminated. The canal itself is somewhat too narrow to take care of the present traffic, so there is a slowing up of traffic because of its increased volume, and because of the bends and the narrowness of the waterway.

I make these observations because I want to say that no one could be more zealous in his efforts to further the development of the intracoastal canal between Corpus Christi and Apalachee Bay than is the senior Senator from Louisiana. But when the question came up as to how the appropriation should be worded, I took the position, which I think is correct, that the appropriation should be made toward the project. The project is one unit. It was recently approved by the Congress of the United States in an act passed in July of this year. The project consists of the development of this intracoastal canal from the Rio Grande on the border of Texas eastward to St. Johns River in Florida, so that it may be connected with the intracoastal canal along the Atlantic seaboard, and thus afford a continuous navigation channel extending from Mexico to Trenton, N. J. So I thought the proper thing to do was to follow the act of Congress authorizing this project. That is what we are making the appropriation for, and that is the customary method of making appropriations for rivers and harbors and for flood control. When we make appropriations for rivers and harbors we do not break down the appropriation project by project. We appropriate a lump sum for rivers and harbors.

The Army engineers in support of the appropriation appear before the committees of Congress and submit a breakdown as to how the money is to be expended, and as closely as possible the break-down is followed. In fact, it is followed whenever and wherever it is practical to do so. The Army engineers consider themselves bound to adhere to the program of distribution of the fund which is appropriated by the Congress as they submit it to the Congress.

The same thing is true with reference to appropriations for flood control. There are only two appropriations made in flood-control appropriation bills. One item is for the lower Mississippi Valley, for which a lump sum is appropriated; and again the Chief of Engineers, or some representative of the Chief of Engineers, submits a break-down of the appropriation. The other item is an appropriation for all other projects carried in what is known as the omnibus flood control bill, and again that appropriation is made in a lump sum. So I think that legislatively what ought to be done with this project recently authorized by the Congress is to make the appropriation for the project as authorized.

The Chief of Engineers, or a representative of his, has appeared before the House Appropriations Committee and before the Senate Appropriations Committee and has advised us what the Corps of Engineers expects to do with this appropriation. They intend to utilize it for the development of the intracoastal canal between Corpus Christi and Apalachee Bay.

That is the break-down they give us. There will be expended, according to the testimony in the record, between six and seven million dollars. It is to be used for the purpose of widening and deepening the existing channel.

Mr. President, it has been suggested by the Senator from Michigan that this appropriation would include the barge canal or ship canal, as he called it, across Florida. The language of the appropriation does include the project, just as the language of all appropriations in flood control and rivers and harbors bills includes the projects in lump sum; the break-down is adhered to. I think it is essential to do so in these appropriation measures. I do not think we ought to undertake legislatively to divide up any particular project and say that so much money should go to this phase of it and so much should go to that phase of it. We make the appropriation for the entire project, and we rely upon the statements made by the engineers as to how the money will be allocated.

Mr. President, out of an abundance of precaution the Committee on Appropriations, in suggesting the amendment, made the following recommendation, which I myself drafted, so as to assure beyond peradventure of doubt that the funds will be used as I have indicated:

The committee recommends this amendment with the understanding that priority will be given to the project named in the House bill, namely, the enlargement of the present Intracoastal Waterway from the vicinity of Apalachee Bay to Corpus Christi, Tex.

That report of the committee will be binding upon the Army engineers, and the money will be so expended. The Army engineers so testified.

Mr. President, my only interest in the language submitted with the Senate amendment is that we may adhere to the customary method of making appropriations for projects. We appropriate for the whole project, and then rely upon the break-down given to us by the Corps of Engineers. I have no other interest in it.

I wanted to make this statement and explanation. I think the Senator from Michigan can rely on it that this money will be utilized for widening and deepening the existing channel, and will not be used either to extend the canal from Corpus Christi down to Brownsville, or to build the barge canal. There is not nearly enough money for that purpose. The barge canal would cost between $44,000,000 and $55,000,000, according to the various estimates which have been made of its cost. At any rate, it would cost in excess of $44,000,000. According to the testimony in the record the unobligated balances proposed to be appropriated for this project are between $6,000,000 and $7,000,000. Consequently, there would not be any money to be used on the $44,000,000 barge canal project.

The cost of enlarging the Intracoastal Waterway from Corpus Christi to Apalachee Bay would be $15,000,000. Therefore the amount of unobligated balances proposed to be appropriated would not be nearly enough fully to develop the existing inland waterway.

Mr. President, that is all I have to say. It is a matter of indifference to me which way the Senate votes on the amendment. I merely wished to make this explanation. I think it is a proper way to make the appropriation.

Mr. VANDENBERG. Mr. President, I have great respect for the able Senator from Louisiana. Of course, I accept his statement at its face value. However, in spite of his persuasive, mollifying, and anesthetizing observations, I wish to observe that the pending amendment is the first appropriation to start the Florida barge canal, so far as the language upon which we are to vote is concerned. One would never guess it from the language of the bill. One would never guess it from a single line in the committee report. That is what I was complaining about yesterday when I suggested that this is a rather curious way to approach a controversial subject of this nature. There is not a hint in the language itself that this is the issue. There is not a suggestion in the committee report; but the fact remains that this is the first act of appropriation to start the Florida barge canal.

Mr. President, the issue becomes very simple. Maj. Gen. T. M. Robins, Assistant Chief of Engineers, testified on September 29, 1942, before the House Appropriations Committee. This is what was said upon that subject:

General ROBINS. The canal it is not intended to start at this time on account of the critical materials situation and the equipment and the manpower that would be required.

The CHAIRMAN. It is not likely to be started during the war, then?

General ROBINS. I would not think so; not unless the materials and equipment situation greatly improve.

The CHAIRMAN. And you do not anticipate that they will?

General ROBINS. There is nothing like that in sight now, sir.

In other words, Mr. President, the testimony of the Board of Rivers and Harbors Engineers is that there is no intention, and can be no intention, to start the Florida barge canal during the war. We have the previous testimony of the Board of Engineers that 3½ years would be required to complete the project after beginning it. We confront the simple proposition that we are asked, in terms, to make an appropriation for a project which cannot start until the war is ended—and we are told upon all sides that it is to be a long war. We are asked, in terms, to make an appropriation to start a project which cannot be undertaken until the war is ended, and which cannot be finished until 3½ years after the war is ended.

Mr. President, I submit that on the day when we have voted a $8,000,000,000 tax burden upon the people of the United States, which will drive many of them to the very subsistence level of existence, at a time when we already confront a deficit of $50,000,000,000 in this year's governmental operations and a $70,000,000,000 deficit in the year immediately to follow, at such a time as this, if there is anything save sheer lip loyalty in the Senate to the cause of economy in nondefense activities, there can be no justification on earth for appropriating textually a single penny for any project, no matter how meritorious, which cannot be undertaken until the war is finished, and cannot be completed for 3½ years after the war is ended.

Mr. President, that is the very simple issue. I must turn aside to correct the RECORD of yesterday. Yesterday I made some observations in the Senate on this matter. The able Senator from Florida [Mr. PEPPER] subsequently challenged my statements. He said they were grossly in error at one point and grievously untrue at another point.

Mr. President, I do not think they were either. I said that this amendment involves just one new project, namely, the Florida barge canal. The difference between the able Senator from Florida and myself in these constructions is that he now insists upon considering the intracoastal canal as a unit project. He then divides it into its sectors; and because the pending amendment would permit the use of unexpended balances on another final sector of the intracoastal canal, he takes the position—which I can quite understand from his point of view—that there is involved in this amendment not only the Florida Canal, but also an extension of the intracoastal canal. I take the position that the intracoastal stands by itself as a unit.

Mr. PEPPER. Mr. President, will the Senator yield?

Mr. VANDENBERG. I shall yield in a moment.

On that basis I submit that I was totally justified when I said that the only new project in this amendment is the appropriation of unexpended balances to start the Florida barge canal.

I now yield to my able friend from Florida.

Mr. PEPPER. Mr. President, the language of the committee amendment is an amendment to Public Law 675, approved July 23, 1942.

Mr. VANDENBERG. That is correct.

Mr. PEPPER. It merely appropriates the unobligated balances to the navigation projects in that law.

Mr. VANDENBERG. That is correct.

Mr. PEPPER. I have before me a copy of Public Law 675.

Mr. VANDENBERG. So have I.

Mr. PEPPER. As the Senator will recall, Public Law 675 provides for three items. The first enumerated is:

a high-level lock barge canal from the St. Johns River across Florida to the Gulf of Mexico in accordance with the plans set forth in the letter of the Chief of Engineers, dated June 15, 1942; and that there is also authorized the enlargement of the present Intracoastal Waterway from the vicinity of Apalachee Bay to Corpus Christi, Tex., and its extension to the vicinity of the Mexican border, so as to provide throughout the entire length of the canal a channel 12 feet deep and 125 feet wide.

Public Law 675 describes a completed project running from the Mexican border to the St. Johns River in Florida. Between the two ends there is an existing intracoastal waterway, 9 feet deep, which is the middle part of the project described in Public Law 675.

My able friend from Michigan committed an error yesterday in saying that the only part of this whole channel which could benefit from the proposed appropriation is the eastern end of the project. By reference to the law I have pointed out that he was in error, because the western end of the project, which is greater in distance than the Florida end, is also eligible for this appropriation. That is the reason I stated that the able Senator was in error in emphasizing only the eligibility of the eastern end of the project.

Mr. VANDENBERG. Mr. President, I have no objection to the Senator's construction of the law. Neither have I any objection to his observations of yesterday. So far as I am concerned, if he thought that I was impugning any motives or attributing any sinister purposes to anybody, he was certainly quite mistaken. I insist that so far as the facts are concerned, only two projects are covered by the pending language. One is the intracoastal canal, as we have always understood it, by itself. The other is the Florida barge canal. So I submit that when I said that the only new project for which appropriations were being started by the pending amendment was the Florida barge canal. I was wholly within the facts, the truth, and my rights.

Mr. President, I wish to say again, as I have said annually, I believe, during the past 7 years, that I have great respect for the incorrigible tenacity of both Senators from Florida. Seven years ago they decided to build this canal, and they have never deviated from that line, regardless of setbacks and obstacles, and, if I may say so, regardless of the Treasury's anemia or the counsels of ordinary prudence and common sense. Here they are again today. They have found a new

way to approach the subject. It is a most delightfully insidious approach.

Again I submit that it is not fair to the Senate to have brought up in this fashion a subject of such fundamental nature, and one which has been a matter of such controversial division. Indeed, I remind the Senate that it voted 30 to 30, and a Vice Presidential vote was required to break the tie, on the question even of authorizing the expenditure in the first instance. I submit to the Senate that it is not fair to bring the matter to the floor, as it was brought yesterday, in an appropriation bill amendment which no one would have dreamed involved that issue, and with a report which very carefully declined to point it out. If there were any doubt about the fact that the subject was at least somewhat in a predetermined fog, I suggest that the doubt is dissipated by the fact that the distinguished chairman of the subcommittee of the Appropriations Committee, who has had long experience in these matters, and is more than ordinarily acute in his perceptions, conceded on the floor that although he had heard the presentation of the matter before the Appropriations Committee he did not know that he had voted to appropriate the unexpended balances to start the Florida barge canal.

I submit that is not the way to deal with the Senate of the United States in respect to matters of this nature. That is the chief thing against which I was complaining yesterday. However, that is neither here nor there. Now we are concerned with the naked issue itself.

The issue is whether we shall here and now make the first little, dribbling appropriation which can be used under the language of the pending amendment to start the Florida barge canal, in spite of the fact that the testimony of the Army engineers is that the work itself probably could not be commenced until the end of the war, and could not be completed until 3½ years thereafter. Obviously, it cannot have anything to do with alleviating the eastern oil shortage which has been used as the chief excuse for the project at the moment. So far as the oil shortage is concerned, the connecting link across Florida is a pipe line which I cordially supported, a pipe line which is being constructed, and through which oil will start to flow in December 1942. That is the connecting link so far as the present national defense necessities are concerned. That is the connecting link so far as any contemporary justification is concerned.

So, Mr. President, we confront this issue: How are we going to pretend any longer that we have any fidelity whatsoever to the cause of economy in nondefense expenditures if here and now we authorize the first expenditure on a controversial project which cannot be undertaken until the war is over, and which cannot be finished until 3½ years thereafter? Have we money enough to allow ourselves the prodigal privilege of involving ourselves in prospective expenditures of such a nature? Mr. President, we have not, in the face of the tax bill passed today which puts $8,000,000,000 on the backs of the American people, and still leaves $50,000,000,000 waiting to be financed somehow in the course of the remaining 9 months of the present fiscal year.

Mr. AIKEN. Mr. President, will the Senator yield?

Mr. VANDENBERG. I yield.

Mr. AIKEN. I simply arise to remind the Senator from Michigan that the people of the country are paying approximately $500,000,000 a year in order to get to the northeastern section of the United States two-thirds of the amount of petroleum products needed there in order to keep the industries going, to keep the people in that section operating their factories, and to enable them to heat their homes. I do not know whether the Florida Canal is more feasible than the pipe line. I do not know what will be the capacity of the pipe line which the Senator says will bring us the oil across Florida by the end of next year.

Mr. VANDENBERG. I said by the end of the present year—that is, by December 1942.

Mr. AIKEN. It seems to me that if we can get the oil across Florida by pipe line better and quicker than we can by barge canal, I should be for the pipe line; but I want to remind the Senator that we want the oil. We observed in yesterday's newspapers a statement that the flow of oil from the petroleum fields to New England is diminishing. At the present time we are receiving only about two-thirds of the amount of petroleum products we need. If it is a matter of expense we should take into consideration the fact that we are spending almost $500,000,000 a year in order to get two-thirds of the amount of petroleum we need by means of the railroads which show every indication of being heavily overburdened at the present time.

Mr. VANDENBERG. Mr. President, apparently I have utterly failed to penetrate the understanding of the able junior Senator from Vermont by what I have said. I completely sympathize with him as to the oil shortage in his section of the country and in the eastern sector of the United States; but I hope and pray that he will not have to wait until 3½ years after the end of the war to get the first oil. The facility on which he is about to vote theoretically will deliver oil to him 3½ years after the termination of the war. If that is of any consolation to the Senator from Vermont, I am afraid that it is a cold consolation—and that is not a pun.

Mr. AIKEN. The opinion stated by the Senator from Michigan as to the length of time required does not seem to agree with other opinions which I have heard expressed.

Mr. VANDENBERG. Mr. President, whose opinion are we to take? The Chief of Army engineers is the officer of the Government upon whom we have to rely for information of this kind. We cannot rely upon the self-serving claims and expectations of lobbyists or of the promoters of special legislation.

The Chief of Engineers repeatedly has stated before the Commerce Committee—and he has refused to be driven from his position—that it would take a minimum of 3 years to build the canal. At the hearings within the last 30 days the representatives of the Board of Engineers for Rivers and Harbors stated that, because of the lack of strategic materials, undoubtedly the construction could not even be started before the end of the war. So we can add 3½ years to the year when the war ends; and if the Senator from Vermont has to wait that long before he can get oil brought to the northeastern section of the country, he certainly will have to go through a snowstorm.

Mr. President, the Senator from Louisiana said that this was a perfectly normal way to approach the subject. I repeat that he was exceedingly persuasive about the matter.

Let us see what the normal way is. In August I wrote to the Board of Engineers and asked them what they intended to do about the canal authorization. Major General Reybold wrote to me under date of August 17. I read what he said:

> The funds appropriated and presently available to the Department for the prosecution of river and harbor works may be allotted only to projects authorized by Congress prior to the appropriation of such funds. Accordingly, the Department has at the present time no funds which could be used for initiation of the construction of the Florida barge canal authorized by act of Congress approved June 23, 1942.

Listen; this is General Reybold speaking:

> As you know, the normal method—

That is what the able senior Senator from Louisiana was talking about—

> of financing authorized Federal river and harbor improvements is by the appropriation of funds in War Department civil appropriation acts. It would appear, therefore, that initiation of work upon the canal is dependent upon future appropriations of funds by Congress.

Appropriations of funds by Congress in the normal way, which is in the regular appropriation bills for that purpose—not hidden at the tail end of a $6,000,000,000 national defense measure which carries the flag at the front of its parade.

Mr. OVERTON. Mr. President, will the Senator yield?

Mr. VANDENBERG. I yield.

Mr. OVERTON. Certainly that is the normal way. The normal way to make an appropriation for river and harbor projects and flood-control projects is to make it in an appropriation which usually comes up in a War Department civil functions appropriation bill. I said that the normal way to proceed is to make an appropriation for the project, and then the engineers make statements before the committees of Congress as to how the money would be expended—to which proposal they adhere. They do not break the project into a number of smaller projects, and say "I will ask for an appropriation for this small part, and another appropriation for that small part, and another appropriation for the project itself, and that is the normal, usual, and customary way."

One other word: Nothing at all is hidden at the tail end of the bill.

Mr. VANDENBERG. Mr. President, I want to comment on what the Senator

has just said, and then I shall yield to him again. I do not want to get too many large guns pointed at me all at once.

As to what the Senator has just said, I assert that the Florida Barge Canal and the Intracoastal Waterway System have never heretofore been considered by Congress as one unified undertaking.

On the contrary, the canal has always stood upon its own feet, it has always been the subject of independent controversy, and while in ultimate operation the Senator is quite correct that the whole thing is painted as an integrated whole by its promoters, and perhaps that is what it will utimately prove to be, yet at the moment, and on the record, there has never been a minute when the Florida Canal and the intracoastal canal have either been considered or voted upon by the Senate as anything except separate undertakings.

Now, what is the next question the Senator wishes to submit?

Mr. OVERTON. Let me answer the Senator's statement, and I will then submit the next question.

The answer to what the Senator has said is found in the act of Congress of July 23, 1942, Public Law 675, when the Congress of the United States took the intracoastal canal from the Rio Grande to St. Johns River, Florida, and made it one project, and I think that hereafter, whenever an appropriation is made for that project, it should be made for the project in its entirety, with a breakdown as to how the money will be allocated in the construction of any work that is to be done, and reported by the Army engineers to the Congress. I think we can rely on the report of the engineers, and that they will adhere to it. They have reported in respect to this particular appropriation that they expect to use the money in broadening and deepening the existing channel.

There was nothing hidden about the amendment in the Senate Committee on Appropriations, just as there is nothing hidden about it here before the Senate as a whole.

Mr. VANDENBERG. Mr. President——

Mr. OVERTON. Pardon me, but let me say something about that, since the Senator charges the Committee on Appropriations with undertaking to hide something.

Mr. VANDENBERG. I did not charge them with hiding anything. If "hidden" is the wrong word, very well, let us change it. Let me give the Senator something else to talk about which will be more accurate. When this subject was presented to the Committee on Appropriations in such a manner that the distinguished chairman of the subcommittee did not know what the committee was voting on, I suggest that it was at least befuddled.

Mr. OVERTON. I regret that the chairman of the subcommittee made the statement he did make. I think he made it inadvertently.

Mr. VANDENBERG. The Senator will have to quarrel with him about it.

Mr. OVERTON. I shall not quarrel with anyone about it. I simply wish to state, because I think it is rather a serious charge the Senator from Michigan is making against the members of the Senate Committee on Appropriations, that the matter was thoroughly discussed. I know the Senator from Michigan has read the report of the hearing.

Mr. VANDENBERG. Yes; I read it last night. I did not know a thing about it, however, until I stumbled on it by accident yesterday afternoon.

Mr. OVERTON. The Chief of Engineers could not appear, and he sent as his representative, Colonel Reber, who appeared before the committee and made a statement and subjected himself to examination. In addition to that, the Senator from Florida made a statement, and in addition to that, the whole matter was thoroughly discussed, not only before the subcommittee, but before the full committee, and it was when the full committee was acting on it that I made the suggestion that there should be included, so that there would be no doubt whatsoever as to where the money would be expended, the express recommendation of the committee that the amendment be adopted with the understanding that priority would be given to the project provided for in the House bill, namely, enlargement of the present Intracoastal Waterway from Apalachee Bay to Corpus Christi, Tex. There was no subterfuge about it, and there never has been. It was open and aboveboard, and it is open and aboveboard in the bill, and anyone who runs may read.

Mr. McKELLAR. Mr. President, will the Senator from Michigan yield?

Mr. VANDENBERG. I yield, if the Senator wants to read while he runs.

Mr. McKELLAR. Since I have been referred to, I wish to make a statement. As I stated yesterday, I thought the appropriation for this canal covered the distance from Corpus Christi to Apalachee Bay on the west coast of Florida, but I was not sure at the time what it included. It was my understanding that it connected with the pipe line on the west coast of Florida. Evidently I was mistaken about it.

I wish to acquit the two Senators from Florida and members of the committee of anything improper. The Senator from Florida appeared before the committee, and Colonel Reber, one of the finest men I ever knew, appeared and testified about it. But I am frank to say, as I stated yesterday, I did not understand the full scope of the proposal. I was honest about the statement, as I try to be honest about everything that comes before me at any time. I made a statement yesterday about the matter, and I repeat it now. But my statement does not reflect on the openness and the fairness and the justice of the committee, because the Senator from Louisiana [Mr. OVERTON] and various other Senators took a very active part in the matter, and there was evidently a misunderstanding on my part. I looked at the record very carefully to see how I could have been misled.

Mr. OVERTON. Not only did the subcommittee act on it, but when it came to the full committee, did I not make an explanation of the matter?

Mr. McKELLAR. I presume that is true.

Mr. OVERTON. And did I not make the suggestion that the amendment be adopted and recommended to the Senate?

Mr. McKELLAR. Yes. It was no doubt my dullness of wit that prevented my understanding the situation.

Mr. VANDENBERG. I thank the able Senator from Tennessee for his candor. It is quite characteristic of him.

Let us eliminate all discussion about what happened in the committee, let us take out of the record everything about it.

Mr. McKELLAR. Everything was perfectly fair and aboveboard.

Mr. VANDENBERG. Let us take out of the record any imputation which might have been read into my observations, that I was criticizing anyone's motives. I am doing nothing of the kind. I have the greatest respect in the world for the Senator from Louisiana. Of course, he would not be a party to any such undertaking. I also have the greatest respect for the senior and junior Senators from Florida. We have been the friendliest kind of enemies on this subject, ever since it first arose back in the days of Adam and Eve.

Let us eliminate all that. Let us face the naked issue upon which we are about to vote and let us confine the challenge to the issue, which is simply this: The requested appropriation is the first appropriation to start construction of the Florida barge canal, so far as the textual authority is concerned. Construction probably cannot be even undertaken, according to the testimony of the river and harbor engineers, until the end of this war. It then cannot be concluded within 3½ years.

All I ask is a roll call, to determine whether or not Senators feel that, on the same day when they have voted $8,000,000,000 of back-breaking taxes upon the American people, they are willing to make an appropriation of this nature for this far-distant Florida barge canal.

The PRESIDING OFFICER. The question is on agreeing to the amendment on page 33, line 14.

Mr. VANDENBERG. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ANDREWS. Mr. President, I had not intended speaking on the subject, but there is a moral obligation back of the proposition which I feel should be explained again. A part of it has not been explained.

We know that the Intracoastal Waterway of the Gulf, 1,200 miles or more in length, and the inland waterway of the Atlantic coast, cannot function properly with a dead end in the middle. Construction of the barge canal would remove that dead end. If the canal had been started 3 or 4 years ago, as provided for in a bill before this body, which was lost by about five votes, the construction of it could have already been completed before Pearl Harbor. If the canal had been built we would today have several tankers for use which have been sunk while trying to make the perilous trip along the Gulf coast, around Florida and along the east coast. More than a thousand of the bravest of men have lost their lives in

that undertaking, sailing ships and tankers which were sunk by German submarines on our coasts.

Three and a half years ago some Members of the Senate considered it foolish to build a canal across the State of Florida. It is still so considered in some quarters.

But as a Senator from Florida and a member of the Committee on Naval Affairs I have been through some trying experiences when scores of our tankers and ships were torpedoed before our very eyes. I have stacks of letters on my desk from mothers and fathers whose boys and whose husbands went down with those tankers off the coast of Florida. I was down there when three of those ships were sunk in sight of land. We saw them. I saw nine men, fine men, who had been boiled in oil, brought out of that mess on to the shore dead. They undertook to identify them and send their bodies home. It cannot be denied that men who refused to vote for this project 4 years ago are partly responsible for that situation.

Mr. President, it is not merely a Florida canal. It is called that because it is designed to pass across Florida. It is an interstate canal or interstate waterway. Florida perhaps does not need it half so much as those who live in other States. The Mississippi Valley Waterways Improvement Association has voted year by year for the past 10 years at all its conventions for the construction of this canal. The Gulf Coast Waterways Associations have likewise voted for the construction of this canal. They knew what might happen if it were not constructed and we should face an all-out war—now upon us.

Mr. President, I could go back in the Senate records and show a speech I made on this floor 4 years ago in which I said that we might expect the very situation which we are now facing. Scores of great tankers have been sunk. There was valuable critical material on them which went down, and brave men died when those tankers went down. If the construction had been started at that time we would not now be obliged to ration gasoline and oil in all the eastern seaboard States, because there would have been a string of barges, one behind the other, going through the intracoastal and barge canal, and on to the eastern coast of the United States, to connect up with inland waterways on north to Trenton, N. J.

Mr. President, this is not just a Florida canal. I wish to go back a little, and I should like to have Senators who have been criticizing the efforts of Army engineers, listen to me for some few minutes. I hardly ever speak on the Senate floor, but when I feel an injustice about to be done I shall not hesitate to rise and tell the Senate about it. Back in President Hoover's administration—a Republican administration, if you please—the Congress asked that an investigation be made looking to the construction of a navigable waterway from the Atlantic across the northern part of the Florida Peninsula. President Hoover was supposed to have been the greatest engineer ever to have been President of the United States, perhaps, with the lone exception of George Washington.

The results were followed by the recommendation of an appropriation of $500,000 for the purpose of making a complete survey. Fifteen different surveys were made, and every single aspect of the proposition was looked into, even the effects upon underground water supply of the peninsula. The question with respect to the water supply was settled. Even if the question was respect to possible injury to the underground water supply had not been settled as to a sea-level ship canal, certainly construction of the lock barge canal we are now advocating necessarily could not injure the water supply within 100 yards of the canal, because part of the canal would be above the ground water level. The $500,000 appropriated for the purpose of making surveys was cautiously spent in a complete survey.

When Franklin D. Roosevelt soon thereafter became President of the United States he asked the State of Florida to pass an act authorizing the canal to go through the State of Florida. The legislature of the State passed such an act in compliance with that request. Route 13-B was recommended and the same route involved in the pending bill was chosen. That is the route along which the cross-State canal is going, according to the Army engineers, and under the terms of the authorization act already passed. After the passage of the act by the Florida Legislature authorizing the construction of this canal, the Government called for a mile-wide strip of land 80 miles long from the mouth of the Withlacoochee River to Palatka on the St Johns River. That land has been or is being purchased and furnished free to the Government.

The seven Florida counties through which the route 13-B passes bonded themselves for $2,500,000. The bond issue is in effect today with principal and interest on it being paid by Florida realty holders. The mile-wide strip of land passes through some of the choice land we have in the State of Florida most of which has been turned over to the Federal Government for the purpose of this canal.

What happened? The President of the United States, who had asked that that be done immediately as a work relief proposition, authorized the beginning of the canal across the State. It is only 38 miles across low country from the river bed of the Oklawaha River, which joins the St. Johns River, to the river bed of the Withlacoochee, which goes into the Gulf of Mexico. Through that portion of 38 miles of dry land, 14,000,000 square yards of soil was removed, at a cost of $5,400,000. That will form part of the present proposed canal. At least one-seventh of the Army engineers' estimate of the yardage to be removed has already been removed. The people of seven counties of the State of Florida have bonded themselves for $2,500,000, the Government has spent $5,400,000, which makes nearly $8,000,000 which has already been expended on this project. All of it would be lost if the project is not completed. Some of the highway bridge piers can be seen along the main Dixie highway now unfinished. It is often called down there "Roosevelt's folly" by those from other parts of the country who oppose it.

Mr. President, I want to say that the Congress of the United States and the Government itself ought to have sufficient honesty to keep its part of the obligation and to see that the project is carried through. The people of Florida have done what they were requested to do by the President.

The Mississippi Valley Improvement Association, with memberships from the States of up to the Missouri Valley, have asked that this project be carried through. Florida has kept faith at great expense.

Mr. President, I am going to appeal to Senators here this afternoon to vote for the amendment. I do not know whether adoption of the amendment will result in "beginning" construction of the cross-State barge canal, but we have already passed an act authorizing the appropriation of $44,000,000 for that purpose. All the present amendment does is to ask the President to use any money unexpended in his emergency fund after the construction of this $6,200,000 of work from New Orleans to the Apalachee Bay for the starting of this project on its way.

Mr. President, of course the Chief of Army Engineers is conservative. He has to be. All officials have to be conservative in making any promises. One does not always know when one can promise a man to support him for a certain office, for he does not know what is going to happen before tomorrow. Of course engineers must be and they are conservative in estimating time and costs necessary to complete a project. But we have had good engineers say that they could build the barge canal in 13 months.

Mr. President, I was in Florida the other day and I saw a great deal of machinery down there. The 25 or 30 airports down there are nearly completed and that machinery can be used for this or other important projects. The great dredging trucks called turnos can carry 12 cubic yards of dirt at one time. If they were turned loose, under the direction of the right kind of engineers, the project might be built within a year. But the project can be put off if high officials desire to continue putting it off.

Mr. President, we do not know how long the war is going to last. I shall be on the floor to tell Senators again that we missed our chance 4 years ago when we then did not start the project and had it completed by now. If the project had been begun 4 years ago we would not now have this rationing of gasoline and fuel oil which constitutes the very lifeblood of our civilization, of our Air Force, our Navy, our transportation, and even our homes. We must pass through this winter with a home temperature not exceeding 65 degrees. I wish to say to the Senate that people cannot live in homes heated to a temperature not above 65 degrees throughout the year.

Mr. LANGER. Mr. President, will the Senator yield?

Mr. ANDREWS. I yield.

Mr. LANGER. I was called away to attend a funeral this afternoon, and just came back a moment or two ago. I did not hear what the Senator from Michigan [Mr. VANDENBERG] had to say, but I am informed that he said the project could not be begun until after the war is ended, and that then it would take four and a half years to complete. Is that correct?

Mr. ANDREWS. That is what the Senator would like to see happen, but if the amendment is agreed to the project may be started by the President through an allocation of any funds that are not needed for the completion or the carrying on of what has already been authorized from this special fund.

In other words, this project has already been authorized by Congress. The appropriations have been authorized, but the allocation must be made by the President of the United States. This amendment would permit the beginning of the project. My judgment is that if the project is allowed to begin, it will develop that it can be completed very easily and soon. It will be like the airport at Corpus Christi, Tex. The senior Senator from Texas [Mr. CONNALLY] will bear me out when I say that the engineers stated that 3 years would be required to build the great naval air base at Corpus Christi. It was completed within 1 year. Practically the same thing was done at Jacksonville, where there is an airport twice as large as the one originally planned. Americans can do anything when they decide to do it.

The VICE PRESIDENT. The question is on agreeing to the committee amendment on page 33, commencing in line 14. On this question the yeas and nays have been demanded and ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHANDLER (when his name was called). I have a general pair with the Senator from Pennsylvania [Mr. DAVIS], who is unavoidably detained from the Senate. If he were present, he would vote "nay." If I were at liberty to vote, I should vote "yea."

The roll call was concluded.

Mr. REED (after having voted in the negative). I have a general pair with the Senator from New York [Mr. WAGNER]. A moment ago I voted in the negative because I had seen the Senator from New York in the Chamber this afternoon. I understand that he is not now present. I transfer the general pair which I have with the Senator from New York to the Senator from Ohio [Mr. TAFT], who, I understand, if present would vote as I have voted. Therefore, I will allow my vote to stand.

Mr. THOMAS of Utah (after having voted in the affirmative). I have a general pair with the Senator from New Hampshire [Mr. BRIDGES]. I transfer that pair to the Senator from New York [Mr. MEAD], and allow my vote to stand.

Mr. HILL. I announce that the Senator from Virginia [Mr. GLASS] and the Senator from Delaware [Mr. HUGHES] are absent from the Senate because of illness.

The Senators from North Carolina [Mr. BAILEY and Mr. REYNOLDS], the Senator from Alabama [Mr. BANKHEAD], the Senator from Washington [Mr. BONE], the Senator from Michigan [Mr. BROWN], the Senator from South Dakota [Mr. BULOW], the Senator from Virginia [Mr. BYRD], the Senator from Idaho [Mr. CLARK], the Senators from Missouri [Mr. CLARK and Mr. TRUMAN], the Senator from Georgia [Mr. GEORGE], the Senator from Iowa [Mr. HERRING], the Senator from Colorado [Mr. JOHNSON], the Senator from Illinois [Mr. LUCAS], the Senator from Nevada [Mr. MCCARRAN], the Senators from New York [Mr. MEAD and Mr. WAGNER], the Senators from Montana [Mr. MURRAY and Mr. WHEELER], the Senator from Texas [Mr. O'DANIEL], the Senators from Maryland [Mr. RADCLIFFE and Mr. TYDINGS], the Senator from West Virginia [Mr. ROSIER], the Senator from Wyoming [Mr. SCHWARTZ], the Senator from South Carolina [Mr. SMITH], the Senator from Tennessee [Mr. STEWART], the Senator from Oklahoma [Mr. THOMAS], and the Senator from Delaware [Mr. TUNNELL] are necessarily absent.

Mr. MCNARY. My colleague [Mr. HOLMAN] has a general pair with the Senator from Tennessee [Mr. STEWART].

The Senator from New Hampshire [Mr. BRIDGES], the Senator from Illinois [Mr. BROOKS], the Senator from Colorado [Mr. MILLIKIN], and the Senator from Massachusetts [Mr. LODGE] are necessarily absent.

The Senator from Ohio [Mr. TAFT] is necessarily absent. If present he would vote "nay."

The result was announced—yeas 32, nays 25, as follows:

YEAS—32

Aiken	Gillette	McKellar
Andrews	Green	Maybank
Barkley	Guffey	Murdock
Bilbo	Hatch	Norris
Bunker	Hayden	Overton
Caraway	Hill	Pepper
Chavez	Kilgore	Russell
Connally	La Follette	Smathers
Downey	Langer	Thomas, Utah
Doxey	Lee	Wallgren
Ellender	McFarland	

NAYS—25

Austin	Gurney	Thomas, Idaho
Ball	Johnson, Calif.	Tobey
Barbour	McNary	Vandenberg
Brewster	Maloney	Van Nuys
Burton	Nye	Walsh
Butler	O'Mahoney	Wiley
Capper	Reed	Willis
Danaher	Shipstead	
Gerry	Spencer	

NOT VOTING—39

Bailey	Glass	Reynolds
Bankhead	Herring	Rosier
Bone	Holman	Schwartz
Bridges	Hughes	Smith
Brooks	Johnson, Colo.	Stewart
Brown	Lodge	Taft
Bulow	Lucas	Thomas, Okla.
Byrd	McCarran	Truman
Chandler	Mead	Tunnell
Clark, Idaho	Millikin	Tydings
Clark, Mo.	Murray	Wagner
Davis	O'Daniel	Wheeler
George	Radcliffe	White

So the committee amendment was agreed to.

The VICE PRESIDENT. The clerk will state the next amendment of the committee.

The next amendment was, on page 33, after line 18, to strike out:

SEC. 201. This act may be cited as the "Second Supplemental National Defense Appropriation Act, 1943."

Mr. MCKELLAR. Mr. President, I ask unanimous consent that the judgments and authorized claims under title III be agreed to en bloc.

The VICE PRESIDENT. Is there objection to the request of the Senator from Tennessee? The Chair hears none, and it is so ordered.

The amendments agreed to en bloc are as follows:

On page 33, after line 20, to insert:

TITLE III—JUDGMENTS AND AUTHORIZED CLAIMS

PROPERTY DAMAGE CLAIMS

SEC. 301. For the payment of claims for damages to or losses of privately owned property adjusted and determined by the following respective departments and independent offices, under the provisions of the act entitled "An act to provide a method for the settlement of claims arising against the Government of the United States in the sums not exceeding $1,000 in any one case", approved December 28, 1922 (31 U. S. C. 215), as fully set forth in Senate Documents Nos. 253 and 265, Seventy-seventh Congress, as follows:

Executive Office of the President:
Office for Emergency Management, $308.33;
Office of Strategic Services, $25.60;
Federal Communications Commission, $35;
Federal Works Agency, $1,940.04;
National Housing Agency, $26.65;
Department of Agriculture, $2,426.95;
Department of Commerce, $1,671.45;
Department of the Interior, $2,065.21;
Department of Justice, $214.05;
Navy Department, $5,439.75;
Treasury Department, $408.66;
War Department, $69,937.18;
Post Office Department (payable from postal revenues), $19.40;
In all, $84,518.27.

At the top of page 35, to insert:

JUDGMENTS, UNITED STATES COURTS

SEC. 302. (a) For the payment of the final judgments, including costs of suits, which have been rendered under the provisions of the act of March 3, 1887, entitled "An act to provide for the bringing of suits against the Government of the United States," as amended by section 297 of the act of March 3, 1911 (28 U. S. C. 761), and which have been certified to the Seventy-seventh Congress in Senate Document No. 254, under the following department and establishment.

War Department, $3,476.27;

Federal Works Agency, Work Projects Administration, $8,024.40;

In all, $11,500.67, together with such additional sum as may be necessary to pay costs and interest as specified in such judgments or as provided by law.

(b) None of the judgments contained under this caption shall be paid until the right of appeal shall have expired except such as have become final and conclusive against the United States by failure of the parties to appeal or otherwise.

(c) Payment of interest wherever provided for judgment contained in this act shall not in any case continue for more than 30 days after the date of approval of this act.

At the top of page 36, to insert:

JUDGMENTS, UNITED STATES COURT OF CLAIMS

SEC. 303. (a) For payment of the judgments rendered by the Court of Claims and reported to the Seventy-seventh Congress in Senate Documents Nos. 255 and 267, under the following departments and establishments, namely:

Executive departments:
Interior: Civil, $5,200; Indians, $5,622.06.
Navy, $152,450.85.
Treasury, $1,743.37.
War, $196,050.79.
Independent Office:
Federal Works Agency: Public Buildings Administration, $48,167.89.

In all, $409,234.96, together with such additional sum as may be necessary to pay interest as and where specified in such judgments.

(b) None of the judgments contained under this caption shall be paid until the right of appeal shall have expired, except such as have become final and conclusive against the United States by failure of the parties to appeal or otherwise.

On page 36, after line 22, to insert:

AUDITED CLAIMS

SEC. 304. For the payment of the following claims, certified to be due by the General Accounting Office under appropriations the balances of which have been carried to the surplus fund under the provisions of section 5 of the act of June 20, 1874 (31 U. S. C. 713), and under appropriations heretofore treated as permanent, being for the service of the fiscal year 1940 and prior years, unless otherwise stated, and which have been certified to Congress under section 2 of the act of July 7, 1884 (5 U. S. C. 266), as fully set forth in Senate Document No. 258, Seventy-seventh Congress there is appropriated as follows:

Independent Offices: For Federal Emergency Relief Administration, $1.49.

For Interstate Commerce Commission, $90.34.

For Civil Service Commission, $12.

For National Mediation Board, $1.61.

For Railroad Retirement Board, $8.58.

For salaries and expenses, Veterans' Bureau, $16.67.

For salaries and expenses, Veterans' Administration, $310.99.

Federal Security Agency: For pay of personnel and maintenance of hospitals, Public Health Service, $22.25.

For expenses, Division of Mental Hygiene, Public Health Service, $13.85.

For Quarantine Service, $1.01.

Federal Works Agency: For administrative expenses, Federal Emergency Administration of Public Works, $428.36.

For administrative expenses, Public Works Administration, $393.67.

For general administrative expenses, Public Works Branch, Procurement Division, $37.05.

For repair, preservation, and equipment, public buildings, Procurement Division, $4.28.

National Housing Agency: For salaries and expenses, Federal Housing Administration, $1.10.

For administrative expenses, Federal Housing Administration, $11.65.

For administrative expenses, United States Housing Authority, Federal Public Housing Authority, $85.75.

Department of Agriculture: For conservation and use of agricultural land resources, Department of Agriculture, $3,810.31.

For exportation and domestic consumption of agricultural commodities, Department of Agriculture, $215.15.

For exportation and domestic consumption of agricultural commodities, Department of Agriculture (transfer to Federal Surplus Commodities Corporation), $2,520.09.

For exportation and domestic consumption of agricultural commodities, Department of Agriculture (transfer to Federal Surplus Commodities Corporation, Act June 28, 1937), $37.14.

For administration of Sugar Act of 1937, Department of Agriculture, $194.91.

For retirement of cotton pool participation trust certificates, Department of Agriculture, $10.87.

For submarginal land program, Farm Tenant Act, Department of Agriculture, $1,795.

For salaries and expenses, Bureau of Animal Industry, $445.81.

For salaries and expenses, Forest Service, $8.57.

For land utilization and retirement of submarginal land, Department of Agriculture, $3,819.71.

For National Industrial Recovery, Resettlement Administration, submarginal lands (transfer to Agriculture), $105.17.

For acquisition of lands for protection of watersheds of navigable streams, $2,855.42.

For special research fund, Department of Agriculture, $10.28.

For salaries and expenses, Soil Conservation Service, $208.45.

For control of emergency outbreaks of insect pests and plant diseases, $73.90.

For National Industrial Recovery, Interior, soil erosion prevention (transfer to Agriculture), $6.50.

For miscellaneous expenses, Department of Agriculture, $24.60.

For emergency conservation fund (transfer from War to Agriculture, act March 31, 1933), $5.

For salaries and expenses, Bureau of Entomology and Plant Quarantine, $4.20.

For salaries and expenses, Bureau of Plant Industry, $77.39.

For administration of Federal Crop Insurance Act, Department of Agriculture, $1.30.

For loans to farmers in drought- and storm-stricken areas, emergency relief, $41.20.

Department of Commerce: For maintenance of air-navigation facilities, Civil Aeronautics Authority, $26.64.

For salaries and expenses, Weather Bureau, $47.51.

For establishment of air-navigation facilities, Civil Aeronautics Authority, $292.80.

For Civil Aeronautics Authority fund, $18.

For salaries and expenses, Civil Aeronautics Authority, $301.59.

Department of the Interior: For education of natives of Alaska, $259.69.

For George Rogers Clark Sesquicentennial Commission, Department of the Interior, $393.10.

For medical relief of natives of Alaska, $15.31.

For National Park Service, $9.85.

For payment to Middle Rio Grande Conservancy District, New Mexico (reimbursable), $12,659.86.

For salaries and expenses, Bureau of Biological Survey, $4.14.

For salaries and expenses, National Bituminous Coal Commission, Department of the Interior, $7.50.

For National Industrial Recovery, Interior, National Park Service, recreational demonstration projects, $4.40.

For agriculture and stock raising among Indians, $15.40.

For conservation of health among Indians, $113.55.

For general expenses, Indian Service, $200.

For Indian boarding schools, $7.62.

For Indian school support, $64.94.

For purchase and transportation of Indian supplies, $231.85.

For support of Indians and administration of Indian property, $36.63.

For Civilian Conservation Corps (transfer to Interior, Indians), $105.56.

District of Columbia: For National Capital Park and Planning Commission, salaries and expenses, District of Columbia, $10.

Department of Justice: For Federal jails and correctional institutions, maintenance, $8.91.

For general expenses, Immigration and Naturalization Service, $45.85.

For salaries and expenses, Federal Bureau of Investigation, $2.40.

For contingent expenses, Department of Justice, $6.58.

For traveling expenses, Department of Justice, $32.14.

For salaries and expenses of marshals, and so forth, Department of Justice, $1,265.94.

For fees of witnesses, Department of Justice, $1.60.

For miscellaneous expenses, United States courts (transfer to Justice), $15.

The Judiciary: For fees of jurors and witnesses, United States courts, $139.50.

For miscellaneous expenses, United States courts, $13.16.

For fees of commissioners, United States courts, $96.65.

For fees and expenses of conciliation commissioners, United States courts (certified claims), $50.

Navy Department: For engineering, Navy, $130,625.95.

For engineering, Bureau of Engineering, $40,439.71.

For maintenance, Bureau of Supplies and Accounts, $11,358.81.

For contingent expenses, Coast Guard (Navy), $120.56.

For contingent expenses, Coast Guard, 82 cents.

For salaries, Hydrographic Office, $1.74.

For foreign-service pay adjustment, appreciation of foreign currencies (Navy), $91.40.

For salaries and expenses, Bureau of Marine Inspection and Navigation, $26.64.

For general expenses, Marine Corps, $258.58.

For increase of compensation, Naval Establishment, $403.66.

For aviation, Navy, $312,362.37.

For pay and allowances, Coast Guard (Navy), $307.31.

For pay and allowances, Coast Guard, $3.01.

For ordnance and ordnance stores, Bureau of Ordnance, $36,583.52.

For pay, subsistence, and transportation, Navy, $2,063.32.

For organizing the Naval Reserve, $5,231.60.

For Naval Reserve, $53.05.

For pay, Marine Corps, $16.81.

For miscellaneous expenses, Navy, $1.10.

For ordnance and ordnance stores, Navy, $343.68.

For general expenses, Lighthouse Service, 90 cents.

Department of State: For lower Rio Grande flood control, Department of State, $2,400.

Treasury Department: For collecting the revenue from customs, $3.40.

For collecting the internal revenue, $4,827.09.

For contingent expenses, Treasury Department, $2.58.

For Foreign Service pay adjustment, appreciation of foreign currencies (Treasury), $160.16.

War Department: For Air Corps, Army, $77.58.

For ordnance service and supplies, Army, $3,364.45.

For general appropriations, Quartermaster Corps, $7.93.

For Organized Reserves, $1.36.

For Reserve Officers' Training Corps, $11.52.

For expenses, camps of instruction, and so forth, National Guard, $15.75.

For medical and hospital department, Army, $70.

For travel of the Army, $85.28.

For subsistence of the Army, $42.12.

For pay of the Army, $206.70.

For pay, and so forth, of the Army, $58.93.

For National Guard, $35.41.

For clothing and equipage, Army, $316.18.

For barracks and quarters, Army, $176.26.

For increase of compensation, Military Establishment, $41.37.

For Signal Service of the Army, $33,651.82.

For Army transportation, $1,288.19.

For travel, military and civil personnel, War Department, $153.73.

For medical and hospital department, $17.63.

For Civilian Conservation Corps (transfer to War), $10,070.36.

For emergency conservation work (transfer to War, Act June 22, 1936), $10.26.

For cemeterial expenses, War Department, $17.70.

Post Office Department—Postal Service (out of the postal revenues): For clerks, first- and second-class post offices, $430.02.

For indemnities, domestic mail, $244.14.

For transportation of equipment and supplies, $3.83.

Total, audited claims, section 304, $632,301.58, together with such additional sum due to increases in rates of exchange as may be necessary to pay claims in the foreign currency and interest as specified in certain of the settlements of the General Accounting Office.

The VICE PRESIDENT. The next amendment reported by the committee will be stated.

The next amendment was, on page 45, after line 18, to insert:

SEC. 305 For the payment of claims allowed by the General Accounting Office pursuant to the act entitled "An act for the relief of officers and soldiers of the Volunteer Service of the United States mustered into service for the War with Spain, and who were held in service in the Philippine Islands after the ratification of the treaty of peace, April 11, 1899", approved May 2, 1940 (Public Act No. 505, 76th Cong.), and which have been certified to Congress under section 2 of the act of July 7, 1884 (U. S. C., title 5, sec. 266), under the War Department in Senate Documents Nos. 257 and 266 of the Seventy-seventh Congress, $19,999.34.

The amendment was agreed to.

The next amendment was, on page 46, after line 6, to insert:

SEC. 306. For payment of the claim allowed by the General Accounting Office for payment of prize money to captors, Spanish War, provided under sections 3689, 4613, and 4652 of the Revised Statutes, as amended by the Permanent Appropriation Repeal Act, June 26, 1934 (31 U. S. C. 725f), and which has been certified to Congress in Senate Document No. 256 of the Seventy-seventh Congress, $3.85.

The amendment was agreed to.

The next amendment was, on page 46, after line 14, to insert:

SEC. 307. This act may be cited as the "Second Supplemental National Defense Appropriation Act, 1943."

The amendment was agreed to.

The VICE PRESIDENT. That completes the committee amendments.

Mr. McKELLAR. Mr. President, I am authorized by the committee to offer sundry amendments. I have given notice for the consideration of these amendments, as required by the rule. I send the first one to the desk and ask that it be stated.

The VICE PRESIDENT. The amendment offered by the Senator from Tennessee will be stated.

The CHIEF CLERK. On page 14, after line 7, it is proposed to insert:

OFFICE OF PRICE ADMINISTRATION

The second proviso clause under the head "Office of Price Administration" in the First Supplemental National Defense Appropriation Act, 1943, is hereby amended by deleting therefrom the words: "shall be so administered during the fiscal year 1943 as to constitute the total amount that will be furnished to such Administration during such fiscal year for the purposes set forth in this paragraph and."

Mr. LA FOLLETTE. Mr. President, what is the purpose of the amendment?

Mr. McKELLAR. Mr. President, in the appropriation bill for the Office of Price Administration there was a provision which limited to $120,000,000 the amount to be spent until next July. Since that time Congress has passed several bills which add to the duties and require additional compensation. The amendment merely removes the inhibition, so that hereafter they may ask for appropriations to perform the additional duties which have devolved upon them from the Congress itself. For that reason, we offer the amendment, which is legislation, repealing the provision referred to.

Mr. LA FOLLETTE. It has nothing to do with the question of subsidy, has it?

Mr. McKELLAR. Oh, no.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Tennessee [Mr. McKELLAR].

The amendment was agreed to.

REDUCTION OF DRAFT-AGE LIMIT

Mr. BARKLEY. Mr. President, will the Senator yield to me?

Mr. McKELLAR. I yield.

Mr. BARKLEY. At this time I wish to announce that it is proposed that the first thing on Thursday the Senate will take up the bill proposing modification of the draft law. I desire to obtain an agreement to make that bill the unfinished business following the disposition of the pending appropriation bill, and if we finish consideration of the pending bill within the next few minutes, which I hope will be the case, I propose that the Senate recess until Thursday.

Mr. McNARY. Mr. President, a few days ago I conferred with the Senator from Kentucky. Personally I favor the proposition the Senator has stated.

Mr. BARKLEY. I appreciate that. The Senator from Oregon was very cooperative in arranging about the matter, and in fairness to him and to his colleagues it should be said that while some Senators wished to take up the bill at once, in view of what occurred on the floor of the Senate 2 or 3 weeks ago, I thought it would be only fair to give Senators who are absent an opportunity to return.

Therefore, if the Senator will further yield to me, I ask unanimous consent that, following conclusion of the consideration of the appropriation bill now before the Senate, the bill (S. 2748) to amend the Selective Training and Service Act of 1940 by providing for extension of liability, reported by the Committee on Military Affairs, modifying the draft law by reducing the limit to 18 years of age, be made the unfinished business, to be taken up on Thursday next.

The VICE PRESIDENT. Is there objection? The chair hears none, and it is so ordered.

AUTHORIZATION FOR SIGNING TAX BILL, ETC.

Mr. BARKLEY. If the Senator will further yield to me, while I am on my feet I ask unanimous consent that during recess of the Senate following today's session the Vice President be authorized to affix his signature to the tax bill or to any other bill ready for his signature.

The VICE PRESIDENT. Without objection, it is so ordered.

SUPPLEMENTAL NATIONAL DEFENSE APPROPRIATIONS

The Senate resumed the consideration of the bill (H. R. 7672) making supplemental appropriations for the national defense for the fiscal year ending June 30, 1943, and for other purposes.

Mr. McKELLAR. Mr. President, I send to the desk another amendment, which I offer and ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 24, after line 15, it is proposed to insert:

UNITED STATES MARITIME COMMISSION

On and after November 1, 1942, section 2 of the Independent Offices Appropriation Act, 1943, approved June 27, 1942, shall not apply to the position of Vice Chairman of the United States Maritime Commission so long as the office is held by the present incumbent.

Mr. McKELLAR. Mr. President, the amendment was proposed by the Senator from Oregon, and the committee has authorized me to offer it. I ask that the amendment be agreed to.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Tennessee [Mr. McKELLAR].

The amendment was agreed to.

Mr. McKELLAR. I send to the desk another amendment, which I offer and ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 27, after line 25, it is proposed to insert:

BUREAU OF MINES

Construction and equipment of helium plants: For an additional amount, fiscal years 1943 and 1944, for "Construction and equipment of helium plants", to constitute one fund with the appropriation under this head in the Interior Department Appropriation Act, 1943, such fund to be available for all the objects for which said appropriation is available, including transportation of personnel engaged in work authorized thereunder between helium plants and related facilities and communities that provide adequate living accommodations when specifically authorized by the Secretary of the Interior after a determination by the Office of Defense Transportation that existing private and other facilities are not and cannot be rendered adequate by other means and that the exercise of this authority will result in the most efficient method of supplying transportation to the personnel concerned, and the purchase and exchange of passenger-carrying trucks, trailers, and busses used for such purposes without charge against the limitation on the purchase of passenger-carrying automobiles hereinafter specified, $11,000,000: *Provided*, That the limitation of $16,600 on expenditures for purchase (including exchange) of passenger-carrying automobiles is hereby increased to $33,250, and the limitation of $30,000 on expenditures for personal services in the District of Columbia is hereby increased to $80,000.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Tennessee.

The amendment was agreed to.

Mr. McKELLAR. I send to the desk another amendment, which I offer and ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 27, after line 25, it is proposed to insert:

The authority granted by the Interior Department Appropriation Act, 1943, to the Secretary of the Interior, or any official to whom he may delegate such authority, for the duration of the war and 6 months thereafter, to appoint skilled and unskilled laborers, mechanics, and other persons engaged in a recognized trade or craft, including foremen of such groups, employed at experimental plants and laboratories of the Bureau of Mines without regard to the Classification Act of 1923, as amended, is hereby extended to include appointment of such employees at helium plants and properties related thereto.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Tennessee.

The amendment was agreed to.

Mr. McKELLAR. I send to the desk another amendment, which I offer and ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 33, after line 20, it is proposed to insert:

SEC. 201. The limitation of $925 specified in section 405 of the Sixth Supplemental National Defense Appropriation Act, 1942, and any similar limitation specified in any other appropriation act for the fiscal year 1943 may be exceeded by such amount as the Secretary of War, in the case of the War Department, the Secretary of the Navy, in the case of the Navy Department, the Commissioners, in the case of the government of the District of Columbia, and the Director of the Bureau of the Budget, in the case of other essential governmental needs, may determine necessary to obtain satisfactory lightweight and medium-weight motor-propelled passenger-carrying vehicles, but in no event shall the price so paid for any such vehicle exceed the maximum price for such vehicle established by the Office of Price Administration and in no event more than $1,500.

Mr. LA FOLLETTE. Mr. President, I ask for an explanation of the amendment.

Mr. HAYDEN. Mr. President, I shall be very glad to give the Senator an explanation. The present limitation on the amount which may be spent for the purchase of automobiles is $925. The committee provided in the amendment, as submitted to the Senate, that the amount shall not exceed the maximum price established by the Office of Price Administration—in no event more than $1,500. I desire to amend the amendment by adding the words—

which amount shall be in addition to amounts allowed for transportation.

When the original limitation of $925 was imposed the price referred to was the price at the factory. The cars which are to be purchased are located in various parts of the country, where they must be purchased from dealers. For that reason the amount of the limitation is proposed to be increased, and of course the dealers must be compensated for the freight paid on the cars. On the Pacific coast it amounts to at least $150.

Therefore, Mr. President, I send to the desk the amendment, which I offer to the amendment, and ask to have it stated.

The VICE PRESIDENT. The amendment to the amendment will be stated.

The CHIEF CLERK. At the end of the amendment on page 33, after line 20, submitted by Mr. McKELLAR, it is proposed to insert "which amount shall be in addition to amounts allowed for transportation."

Mr. DANAHER. Mr. President, let me ask where that language is to be inserted. Can the Senator from Arizona give me the information?

Mr. HAYDEN. On page 33, after line 20, at the end of the proposed section 201.

Mr. DANAHER. How does the limitation relate in amount to the $1,250 limitation which we have already placed on the Bureau of Yards and Docks with reference to their acquisition of 2,000 automobiles?

Mr. HAYDEN. They can buy the automobiles for that price. The Army buys them from dealers all over the country. So we put a double limitation: First, the price shall not be higher than the price established by the Office of Price Administration; and, second, in no event shall it be more than $1,500 plus the freight.

The idea was that we did not want the Army to be buying Cadillacs and Packards and other high-priced cars; therefore, those limitations were proposed.

Mr. DANAHER. Mr. President, will the Senator yield?

Mr. HAYDEN. I yield.

Mr. DANAHER. When we were considering the amendment on page 4, lines 16 to 19, I asked the Senator from Tennessee why the $925 limitation contained in existing law was being raised to $1,250. He then told us precisely what we are being told by the Senator from Arizona is the basis for an increase in price for yet another type of automobile, apparently, to $1,500, plus transportation costs. The Senator from Tennessee told us that we had to increase the amount paid per car $325 in order to take care of all the extra costs, to take care of dealers' carrying charges and the 1-percent-a-month increase in cost over and above the frozen price, if I may use the term, fixed by the Office of Price Administration. I should like to reconcile the two amendments.

Mr. HAYDEN. The first amendment referred to related to a few cars to be purchased by the Navy. The pending amendment relates to a large number of cars to be purchased at locations all over the country by the Army.

Mr. DANAHER. How many automobiles?

Mr. HAYDEN. I should say at least 2,000.

Mr. DANAHER. On page 4, the purchase of 2,000 automobiles is provided for. We are talking about 2,000 additional motor-propelled passenger-carrying vehicles, to be purchased at a price not to exceed $1,250. I do not see how we reconcile the two amendments.

Mr. HAYDEN. In the bill itself we are simply placing a limitation on the total price which may be paid for the automobiles which the Army can buy; we are not limiting the number, but we are placing a limitation on the price.

Mr. DANAHER. But the proposed limit is $250 higher than the limit which previously existed, which had been increased by $325.

Mr. HAYDEN. As was explained in great detail the other day, that is because the automobiles have passed from the ownership of the factories into the hands of dealers. The dealer is allowed by the Office of Price Administration to add to the price of the car the amount allowed each month for carrying charges, and in addition to that we have to allow for the freight charges incurred in hauling the cars all over the country.

The maximum of $1,500 is proposed simply to make sure that no Army officers will ride around in Packards, Cadillacs, or Rolls-Royces.

Mr. DANAHER. That does not follow at all; that is a non sequitur if there ever was one. I was passed this morning by a Packard 160, in which there were some Army officers, and I envied them. But that is not the point. Let me digress to say to the Vice President, who smiled as I spoke, that I have noticed that he gave up his beautiful Packard in recognition of the situation, for which I applaud him.

On page 4, lines 16 to 19, the bill provides that the Navy may buy 2,000 automobiles, at a cost per unit of $1,250. We were told that the increase of $325 was to take care of the very items which the Senator from Arizona now says justify an increase to $1,500 a unit. Does the Senator try to reconcile the two matters, or is the Senator amending the general, all-over unit price for a car, and raising it to $1,500 a car?

Mr. HAYDEN. We are trying to comply in each case with the request of the department affected. In one case the Navy Department wanted the price fixed at $1,250. They can get along with that limit. The Army said they could not. We have to provide them with the cars, and they cannot get them except from dealers.

Mr. DANAHER. I see. So that, as the Senator from Massachusetts explained when he told us that if we were going to transport workers to yards and docks, the Navy can get along with a $925 car, increased by $325, but the Army cannot, and therefore the Senator from Arizona would increase the allowance to $1,500.

Mr. HAYDEN. The bill is open to amendment, and the Senator can offer an amendment changing the $1,250 to $1,500 if he desires to protect the Navy.

Mr. WALSH. Mr. President, I should like to inquire of the Senator from Arizona whether these cars are to be used for transporting passengers or workers from their homes.

Mr. HAYDEN. No.

Mr. WALSH. That is what the Navy cars are for. They say they are going to buy cars for $1,200, and use them as busses. I cannot understand why an ordinary passenger car to carry workers should cost more than a bus, such as those the Navy is going to use, would cost.

Mr. DANAHER. It seems to me to be an extraordinary allowance, I say to the Senator from Massachusetts, and I think the explanation he offered a day or so ago with reference to the Navy's need was very satisfactory.

Mr. WALSH. It may be that the Army, which has the same authority as

the Navy to transport its workers, has in mind busses also, but is not able to get them at the same price at which the Navy gets them. Is that the situation?

Mr. HAYDEN. I do not know about that. All I know is that according to the testimony the various cars run up in price to above $1,400, and in order to be on the safe side the committee made the allowance $1,500. The language as submitted to the committee contained no definite amount, but simply said the price should be as the Office of Price Administration suggested, and out of precaution the committee put it at $1,500.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Arizona [Mr. HAYDEN], to the amendment of the Senator from Tennessee [Mr. MCKELLAR].

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

Mr. McKELLAR. Mr. President, I offer another amendment on behalf of the committee, which I ask to have stated.

The CHIEF CLERK. On page 28, after line 23, it is proposed to insert:

SEC. 202. Section 301 of the Second Supplemental National Defense Appropriation Act, 1941 (act of September 9, 1940, 54 Stat. 884), be, and it hereby is, amended to read as follows:

"SEC. 301. That during the period of the national emergency declared by the President on September 8, 1939, to exist, so much of section 6 of the act approved May 6, 1939 (53 Stat. 683), as amended by section 2 of the act approved June 30, 1939 (53 Stat. 989), as requires the head of each executive department and independent establishment (other than the Post Office Department) to submit to the Postmaster General quarterly reports relating to mail matter which has been transmitted free of postage, is hereby suspended."

Mr. DANAHER. Mr. President, what is the reason for the amendment?

Mr. McKELLAR. Mr. President, I have a letter from the Attorney General, addressed to the senior Senator from Virginia [Mr. GLASS], which explains the whole situation. The Attorney General's letter is as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., October 5, 1942.

Hon. CARTER GLASS,
Chairman, Committee on Appropriations, United States Senate, Washington, D. C.

MY DEAR SENATOR: I desire to call your attention to a provision of law which seems to impose an unnecessary burden on the executive departments and independent agencies of the Government and from which they should be relieved, at least for the duration of the present emergency.

Pursuant to the provisions of section 2 of the Urgency Deficiency Act of 1939–40 (act of June 30, 1939, 53 Stat 989, U. S. C. 39, sec. 321b), the head of each executive department and independent establishment, other than the Post Office Department, was required to submit to the Postmaster General quarterly reports relating to the amount of mail matter transmitted free of postage during the preceding 3 months.

This requirement imposes a considerable administrative burden on the various departments and the preparation of the reports consumes much time, which during the national emergency could be spent more advantageously on other more urgent matters. For example, the full time of about 20 employees of the Department of Justice is consumed in preparing these reports, covering the seat of government and all field offices.

Section 301 of the Second Suplemental National Defense Appropriation Act, 1941 (act of September 9, 1940, 54 Stat. 884), expressly suspended the foregoing requirement so far as the War and Navy Departments are concerned, during the period of the national emergency declared by the President on September 8, 1939.

Accordingly, I recommend the enactment of legislation which would likewise relieve the other departments of the Government during the period of the national emergency of the duty of furnishing to the Postmaster General quarterly reports of the amount of mail transmitted by it free of postage. This purpose may be effected by inserting the words "and independent establishment" after the words "head of each executive department" in section 301 of the Second Supplemental National Defense Appropriation Act, 1941, and by striking out the clause "insofar as the War and Navy Departments are concerned" at the end of that section.

A draft of a proposed bill to effectuate this purpose is enclosed herewith.

I have been informed by the Director of the Bureau of the Budget that the proposed legislation is in accord with the program of the President.

Sincerely yours,

FRANCIS BIDDLE,
Attorney General.

A bill to exempt the Government agencies from furnishing reports relating to the transmission of postage-free mail

Be it enacted, etc., That section 301 of the Second Supplemental National Defense Appropriation Act, 1941 (act of September 9, 1940, 54 Stat. 884), be, and it hereby is, amended to read as follows:

"SEC. 301. That during the period of the national emergency declared by the President on September 8, 1939, to exist, so much of section 6 of the act approved May 6, 1939 (53 Stat. 683), as amended by section 2 of the act approved June 30, 1939 (53 Stat. 989), as requires the head of each executive department and independent establishment (other than the Post Office Department) to submit to the Postmaster General quarterly reports relating to mail matter which has been transmitted free of postage, is hereby suspended, insofar as the War and Navy Departments are concerned."

Mr. DANAHER. I am satisfied, but I should like to ask one question. Does the relinquishment of the requirement mean that no one will have to keep track of how much it costs to handle this mail?

Mr. McKELLAR. It will mean that for the duration of the emergency, but not longer.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Tennessee.

The amendment was agreed to.

Mr. McKELLAR. Mr. President, I offer another amendment, which I send to the desk, and ask to have stated.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. On page 10, after line 21, it is proposed to insert:

DEFENSE AID

The funds appropriated in section 1 (d) of the Defense Aid Supplemental Appropriation Act, 1941 (Public Law 23), in section 101 (c) of the Defense Aid Supplemental Appropriation Act, 1942 (Public Law 282), and in section 301 (c) of the Second Defense Aid Supplemental Appropriation Act, 1942 (Public Law 474), shall be deemed to be available retroactively as well as prospectively for the procurement, disposition, or furnishing of any defense information or defense service under the act entitled "An act to promote the defense of the United States", approved March 11, 1941 (Public Law 11), whether or not such information or service is necessary to or connected with the procurement or disposition of any defense article, and the authority to dispose of defense articles granted in section 102 of the Third Supplemental National Defense Appropriation Act, 1942 (Public Law 353), in section 102 of the Fourth Supplemental National Defense Appropriation Act, 1942 (Public Law 422) in section 301 of the act of February 7, 1942 (Public Law 441), in sections 102 and 303 of the Fifth Supplemental National Defense Appropriation Act, 1942 (Public Law 474), in section 201 of the Sixth Supplemental National Defense Appropriation Act, 1942 (Public Law 528), in section 103 of this act, and in any other appropriation act for the same purpose, shall be deemed to include the authority to procure, dispose of, or furnish the defense information or defense service under said act of March 11, 1941, whether or not such information or service is necessary to or connected with the procurement or disposition of any defense article.

Mr. McKELLAR. I can explain the proposal in a word. Under the Lease-Lend Act a ruling by the Comptroller in regard to the use of fund was such that it prevented doing what the act required. The amendment I am offering is merely to change the language so as to conform to the ruling of the Comptroller.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McKELLAR. I ask unanimous consent to have printed in the RECORD a letter relating to the amendment just agreed to.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF LEND-LEASE ADMINISTRATION,
Washington, D. C.

Hon. KENNETH MCKELLAR,
United States Senate, Washington, D. C.

MY DEAR SENATOR MCKELLAR: As you know, Mr. George Ball, Assistant General Counsel of the Lend-Lease Administration, appeared before the Senate Appropriations Committee to urge the inclusion of a provision (attached) in the Second Supplemental National Defense Appropriation Act of 1943, which would clarify the authority of the Lend-Lease Administration to utilize funds already appropriated for the purpose of providing to our Allies services and information not necessarily related to the transfer of any defense article. Mr. Ball in his statement, a copy of which is attached, pointed out that the appropriations to the War and Navy Departments which are available for lend-lease purposes contain this authority, but that the Comptroller General has raised a question as to the availability for similar purposes of funds appropriated directly to the President.

Unless this authority is clarified in the pending appropriation bill, the lend-lease program will be seriously impeded. When the Army and Navy requested funds for the current fiscal year, it was on the assumption that expenses for the transfer of services and information would be borne in large part out of funds appropriated directly to the President and allocated by the Lend-Lease Administration to the various procurement agencies. There are now pending a number of requests by foreign nations to provide for the payment of the dollar costs

of certain services. Examples of such requests are the transportation of New Zealand air-force personnel from New Zealand to San Francisco, and the hospitalization of British personnel injured in this country while undergoing pilot training. I am confident that the Congress has no intention of preventing the Lend-Lease Administration from providing such services, and I trust that you will find it possible to include the authority which we have requested in the pending bill.

The War and Navy Departments, and the Bureau of the Budget, have approved the request for this authority.

Sincerely yours,

OSCAR COX,
General Counsel.

Mr. McKELLAR. I have one other amendment, which will explain itself.

The VICE PRESIDENT. The clerk will state the amendment.

The CHIEF CLERK. On page 11, after line 13, under the caption "Legislation", it is proposed to insert the following:

COMMITTEE ON FEDERAL EXPENDITURES

For an additional amount, which is hereby authorized, to enable the Committee to Investigate Federal Expenditures to carry out the duties imposed upon it by section 601 of the Revenue Act of 1941, to remain available during the existence of the committee, $10,000, one-half to be disbursed by the Secretary of the Senate and the other half by the Clerk of the House upon vouchers approved by the chairman of the committee.

Mr. McKELLAR. I can explain the amendment in a word. It refers to the Byrd committee. That committee took the lead last year in reducing nonwar expenditures of the Government. As a matter of fact, our appropriations were lower than those of the preceding year by $1,313,000,000, and that was in large measure the result of the action of the Byrd committee in regard to various matters. We think the committee should be continued. The amendment would appropriate $5,000 for the use of the House members of the committee and $5,000 for the use of the Senate members.

The VICE PRESIDENT. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McKELLAR. Mr. President, that is all the amendments I have to offer.

Mr. DOWNEY. Mr. President, I wish to offer an amendment to the pending bill which I have discussed with the Senator who is sponsoring the measure. The amendment is on page 8, line 17, after the word "law", to add the words "for the pay of commissioned medical officers who are graduates of reputable schools of osteopathy."

I may say, in relation to the amendment, that there is at the present time no provision in the law by which payment can be made by the Navy to commissioned medical officers who are graduates of schools of osteopathy. The Navy is of the opinion, I understand, that some time during this year it may desire to commission officers who are graduates of schools of osteopathy. The provision is merely permissive, and in case the Navy should desire to make such appointments, this amendment would permit that to be done.

Mr. President, I understand the distinguished Senator from Tennessee [Mr. McKELLAR] is willing to take the amendment to conference.

Mr. McKELLAR. Yes. I have no objection to doing so.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from California [Mr. DOWNEY].

The amendment was agreed to.

Mr. MALONEY. Mr. President, I call up an amendment which lies on the table and ask that it be stated.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. At the proper place in the bill it is proposed to insert the following new section:

SEC. —. Any money which, under the provisions of section 403 of the Sixth Supplemental National Defense Appropriation Act (Public, 528, 77th Cong.), as amended (relating to the renegotiation of contracts), is retained by the United States or withheld by the United States from a contractor or subcontractor, and which would be or would have been payable to a contractor or subcontractor except for the renegotiation of a contract under such section, shall be returned to the Treasury and covered into the Treasury as miscellaneous receipts.

Mr. McKELLAR. Mr. President, I will say to the Senator from Connecticut that after talking to him the other day I called up the Under Secretary of War, Mr. Patterson. I do not want to read the letter which he sent me, but I should like to have the letter placed in the RECORD.

The VICE PRESIDENT. Without objection, it is so ordered.

The letter is as follows:

WAR DEPARTMENT,
OFFICE OF THE UNDER SECRETARY,
Washington, D. C., October 13, 1942.

The Honorable KENNETH MCKELLAR,
United States Senate, Capitol Building, Washington, D. C.

MY DEAR SENATOR MCKELLAR: You have asked me whether the War Department would oppose legislation designed to require the covering into the Treasury as miscellaneous receipts of all savings effected as a result of renegotiation of contracts, even where such savings are effected by withholding sums otherwise due to the contractor or by revision of the contract price. The War Department believes that such legislation would serve no useful purpose and would result in a substantial increase in administrative work of the Department.

Prior to the enactment of the renegotiation law contract prices were frequently revised by agreement. Sometimes these revisions resulted in increases, but more often substantial savings to the Government were effected. I do not believe that it ever occurred to anyone that savings resulting from such contract revisions should be paid into the Treasury. I can see no reason why a different view should be taken of similar savings effected since the passage of the renegotiation statute.

The proponents of this legislation seem to be proceeding upon the assumption that the appropriations for the War Department are based on precise estimates of the cost of specific items and that the reduction of any contract price results in an augmentation of the funds available for military purposes. This assumption, however, is not borne out by the facts

The estimates of appropriations required for military and departmental activities follow established procedures required by the Bureau of the Budget and the committees of Congress. In preparing these estimates various items required are grouped together into categories and the total estimated cost of the items within the category are stated. The number of items of any particular category is determined by the strength of the Army which limits the quantity to be procured.

It cannot be determined whether or not the sum estimated or appropriated for any particular category is sufficient or excessive, until the program is completed. One gun may cost more and another less than the amount estimated: one contract may be renegotiated at a lesser price but the next item may absorb all or a part of this reduction. It would be a grave error to assume that if by virtue of the renegotiation of contract prices the cost of the first portion of the total requirements in any given category is less than estimated, that the remainder of the requirements will cost no more than the balance in the appropriation.

Under the established procedure, if there remains at the completion of an authorized procurement period, an unobligated balance of the appropriation for any particular category, this will be reported to Congress and taken into consideration in future appropriations.

The method of accounting to Congress for unobligated balances has the additional advantage that it avoids inflation of appropriations. Furthermore, the procedure which the War Department is required to follow is simple and well understood. On the other hand, to obtain the specific data with respect to each individual contract which would be called for by the proposed legislation would require the setting up of elaborate new systems of bookkeeping.

For these reasons I hope that no action will be taken to require the recovery into the Treasury of any savings effected by renegotiation unless such renegotiation results in the refund or recovery of money actually paid to a contractor.

Sincerely yours,

ROBERT P. PATTERSON,
Under Secretary of War.

Mr. McKELLAR. Mr. President, Mr. Patterson felt that at this time it would be better to administer the bill under the amendments which have already been adopted. He is not unreasonable about the matter at all, but he thought the subject would require more investigation. However, if the Senator feels that it ought to go to conference and see if we can work out something there, I shall not quarrel with him.

Mr. MALONEY. That is very generous. Of course, I want it to go to conference, but I do not want it to go to conference under any shadow of doubt or with the impression that the Senator from Connecticut is shadow boxing about the matter. I want a vote on it. I think the majority of the Senate will be in accord with the amendment and I am prepared to go ahead and discuss it.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. MALONEY. I yield.

Mr. BARKLEY. I do not want to delay the Senator's discussion. I am compelled to leave the Chamber. As I understand the amendment, it means that even in cases where there has been no money paid out of the Treasury—and all money must be paid out by the Treasury, no matter who makes the contract—even in cases where no money has been paid out of the Treasury, but where by renegotiation of a contract what would be paid out later has been reduced, that the amount which the War Department, or the Maritime Commis-

sion, or the Navy Department, would save on the original contract, though not paid out, would have to go back into the miscellaneous funds of the Treasury, so that it would have to be reappropriated by Congress. Is that the object of the Senator?

Mr. MALONEY. That is very definitely the object.

Mr. BARKLEY. I think the Senator, with all due respect to his feelings on the subject is unduly alarmed about that situation. What happens is that until the money is actually paid out by the Treasury, it is in the Treasury. It does not have to be returned to the Treasury.

Mr. MALONEY. May I interrupt the Senator there?

Mr. BARKLEY. Yes.

Mr. MALONEY. Of course, it is in the Treasury, but I hope the distinguished and very able majority leader realizes that though it is in the Treasury, the Army or the Navy or the Maritime Commission may spend it as they please up to the extent that they have those balances, and let me add that during the period of this war it might very well amount to billions of dollars, and let me further add that they might be able to run those departments for a long time after the war without coming to Congress to ask for money.

Mr. BARKLEY. I think the Senator has a fantastic imagination on that subject. Let us take a situation where this might happen. We will say, for example, that we appropriate $25,000,000,000 to the Navy Department for warships.

Mr. MALONEY. I hope I do not forget the Senator's observation about my fantastic imagination, because I am going to come back to that.

Mr. BARKLEY. All right. I have no objection to the Senator coming back to it. Suppose we appropriate $25,000,000,000 to the Navy Department for warships without saying how many of a particular type of ship they should build. They make contracts for the whole $25,000,000,000. Then they renegotiate those contracts, and for $20,000,000,000 they could build the same number of warships for which they had originally contracted, which would have taken up the entire $25,000,000,000. It was an indefinite appropriation in the beginning, so far as the number of ships were concerned. They could not use the money saved out of the funds we had appropriated to the Navy for warships, for the building of an additional warship, without coming back to Congress and getting authority to build another warship out of the money they had saved under the contracts they had entered into under the original appropriation. Is that what the Senator from Connecticut is seeking to arrive at?

Mr. MALONEY. The Senator has selected a very desirable case. Let me clarify it, if I may, because I am afraid there might be some misunderstanding. Let us take the case of guns because they are easier to handle than battleships.

Mr. BARKLEY. There are more of them, too.

Mr. MALONEY. Let us assume that the War Department gets an appropriation of $10,000,000 for guns. As a result of a renegotiation of a contract or contracts it saves $5,000,000. That money remains, although it has never been expended insofar as actual passage of money is concerned, within the control of the War Department, to spend, as I understand it, about as it pleases.

Mr. BARKLEY. No; the Senator from Connecticut is wrong in that respect. It remains in the control of the War Department to spend for the original purpose for which we appropriated it when we appropriated the original amount. They cannot shift it.

Mr. MALONEY. They do not have to shift it. The Senator from Kentucky knows that the appropriations for military purposes are now made in a blanket appropriation.

Mr. BARKLEY. Yes, that is true; and it remains blanket. It does not become unblanketed merely because they make a contract by which, after they have renegotiated it, they save some money. It is still blanketed, and it is still to be spent for the purposes for which we appropriated it.

Mr. MALONEY. For war purposes.

Mr. BARKLEY. Just as if the original contract had been for the new sum to which they had reduced it after a renegotiation.

Mr. MALONEY. I do not follow the Senator at all. If we make a blanket appropriation in the beginning, and the department saves $5,000,000 on a $10,000,000 contract, the $5,000,000, as the Senator points out, is still blanketed, within a blanket appropriation. Does the Senator deny that they can spend that for balloons?

Mr. BARKLEY. Yes; I do. I deny that they can spend it for anything except for what Congress originally appropriated the $10,000,000.

Mr. MALONEY. The Senator knows we make blanket appropriations now.

Mr. BARKLEY. It is blanket for certain specific purposes.

Mr. MALONEY. War purposes.

Mr. BARKLEY. War purposes; but it is not any more blanket after they renegotiate the contract than it was before.

Mr. MALONEY. It gives them the $5,000,000 to do with as they please.

Mr. BARKLEY. Within the limitations of the original $10,000,000 appropriation.

Mr. MALONEY. For the prosecution of the war.

Mr. BARKLEY. For the same purposes for which we appropriated it. Now we trusted the War Department, we will say, in the first instance, and appropriated $10,000,000 to let them spend, as the Senator says, as they pleased. It is a blanket appropriation.

Mr. MALONEY. Only because, if the Senator will permit the interruption, they told us they needed $10,000,000 for guns.

Mr. BARKLEY. They, of course, estimated that they needed $10,000,000 for guns, and that it would cost so much to buy those guns. They make a contract, we will say, which absorbs the whole $10,000,000 for guns. But after they have made the contract, in a hurry, as we know they have to do, and they set in motion the process of renegotiation, they save $2,000,000 on the contract before the money is ever paid out. If the money is paid out, and the contract is renegotiated, and the money comes back to the Treasury, then it automatically goes there.

Mr. MALONEY. I cannot see the difference.

Mr. BARKLEY. Well, the difference is that money has gone out of the Treasury, and goes back in one case, and in the other it has never gone out.

Mr. MALONEY. So the matter of the day on which the negotiation is carried out makes all this great difference?

Mr. BARKLEY. How is that?

Mr. MALONEY. The Senator from Kentucky believes that the day on which we renegotiate makes all this difference.

Mr. BARKLEY. No.

Mr. MALONEY. The Senator from Kentucky seems to believe that if we save $6,000,000 over here, it is all right to put that in the Treasury; but if we save $6,000,000 over there, it is not all right to put it in the Treasury.

Mr. BARKLEY. When money is once paid out of the Treasury it cannot go back into the Treasury for any purpose except into the miscellaneous funds of the Treasury, to be reappropriated by Congress. But when we appropriate money to the War Department, or any of the other agencies involved, upon their recommendation, after they have gone into the question and determined that $10,000,000 is required to buy guns, we will say, they cannot say how many guns they can buy for $10,000,000, because they do not know what the contract will be.

Mr. MALONEY. I do not agree with the Senator; but I shall not interrupt him too long on that question. They do know the price of the gun. That is why they ask for a specific amount.

Mr. BARKLEY. They do not know what the price of the guns will be until they have entered into a contract. They may have an idea; but until a contract is entered into they cannot tell what the price of the guns may be.

The point I make is that we may appropriate $10,000,000 for guns, and a contract may be entered into absorbing the whole $10,000,000. Later the contract may be renegotiated, and the same amount of guns may be obtained for $8,000,000. No money has yet been paid out. The $2,000,000 is still within the Treasury, allocated to the War Department for guns, if the whole $10,000,000 was appropriated for guns at the outset. The Department may buy $2,000,000 more worth of guns, but it may not transfer the $2,000,000 over to something else.

Mr. MALONEY. That would be interesting if the situation which the Senator describes existed; but in the Appropriations Committee we do not appropriate $10,000,000 for guns in this sort of an appropriation bill. We appropriate for blanket purposes. Sometimes we appropriate as much as $1,000,000,000, or even $2,000,000,000, for a single purpose. In some instances we cannot even debate it. In the case of construction we cannot debate it without disclosing our plans to

the enemy. Congress is thereby hampered.

Mr. BARKLEY. I understand.

Mr. MALONEY. So we make a blanket appropriation. I do not think it would be wise—as a matter of fact, I think it would be exceedingly unwise—to do that throughout what might conceivably be a long war. Several times today it has been pointed out that this may be a long war. If we are to spend many billions of dollars during that long period of time the Army, the Navy, and the Maritime Commission may renegotiate and build up tremendous sums. I refer to the possibility of a couple of billion dollars over all.

The Senator from Kentucky says that my notion is fantastic. Let me remind him that we have in the neighborhood of $100,000,000,000 lying around now that has not been spent. We have billions of dollars in the lend-lease fund which have not been spent. I am sorry I do not have the exact figures. Nothing is any longer fantastic in connection with our financial program.

Mr. BARKLEY. The effect of the Senator's amendment, as I see it, would be this: We trusted the War Department, the Navy, and the Maritime Commission with these appropriations in the beginning. We gave them blanket authority to use this much money in the prosecution of the war. The adoption of this amendment in effect would mean that while we trusted the War Department in the full amount we appropriated in the beginning, we do not trust it in the use of what it may save.

Mr. MALONEY. That is not a fair argument, although it is made time and time again. I trust them; but I do not want to pay a premium of billions of dollars on their mistakes or on their good fortune.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. MALONEY. I yield.

Mr. McKELLAR. As the Senator knows, I have a great deal of sympathy with what he is undertaking to do. The question before us now is whether we might not make a mistake in our management of it. Let me read from the letter of Mr. Patterson——

Mr. MALONEY. I read the letter. I am familiar with it.

Mr. McKELLAR. I should like to read it for the RECORD:

> It cannot be determined whether or not the sum estimated or appropriated for any particular category is sufficient or excessive, until the program is complete. One gun may cost more and another less than the amount estimated; one contract may be renegotiated at a lesser price and the next item may absorb all or a part of this reduction. It would be a grave error to assume that if by virtue of the renegotiation of contract prices the cost of the first portion of the total requirements in any given category is less than estimated that the remainder of the requirements will cost no more than the balance in the appropriation.

I am told that the House now has a committee to look into this very matter. That is why I was rather inclined to let the matter go to conference and see if something could be worked out along the lines of the Senator's suggestion, which would not interfere with the department's established order of business. For that reason I was willing to take it to conference to see if we could not work out something.

Mr. MALONEY. I think there is a possibility of getting it to conference with a little more hope and promise than is offered by the language of the Senator, although I may be in error. However, I do not want to have it go to conference with the almost certain feeling that in conference it is going out the first door to the right.

Mr. HAYDEN. Mr. President, will the Senator yield?

Mr. MALONEY. I yield.

Mr. HAYDEN. I have no desire to discuss the merits of the Senator's proposal, but I do wish to discuss the question for a moment and plead with the Senator not to offer his amendment on this appropriation bill. It is legislation.

Mr. MALONEY. The Senator understands that.

Mr. HAYDEN. The Senate can suspend the rule by a two-thirds vote and legislate on an appropriation bill. Often we must do that, because situations arise in which it is unavoidable. However, in this instance we have had this legislation under consideration by two great legislative committees—the Ways and Means Committee of the House and the Finance Committee of the Senate. Today the Senator from Georgia [Mr. GEORGE] reported to the Senate that the House had agreed to legislation of this kind. He stated frankly that it was temporary legislation, and that the House Committee on Ways and Means intends to go fully into the entire subject of renegotiation of contracts. I am a member of the Senate Committee on Appropriations. I do not wish to have that committee lose its standing in the Senate by enacting, on bills which it sponsors, legislation which is not necessary. It is not necessary at this moment. In my judgment there is no urgent need to take action today against the advice of the War Department, when a legislative committee competent to handle the subject has it under consideration in the House. For that reason, to protect the good name of the Senate Committee on Appropriations, I hope that at least one-third of the Senators will not vote to suspend the rule.

Mr. BARKLEY. Mr. President, the whole question raised by this amendment was gone into thoroughly by the Finance Committee and discussed in that committee. A subcommittee was appointed to consider renegotiation. The Senator from Massachusetts [Mr. WALSH] was chairman of the subcommittee. The whole question involved in this amendment was thrashed out, and amendments were agreed on which were acceptable to the contractors, to the War Department, the Navy Department, and the Maritime Commission. It seems to me that to upset legislation which we have just been through today, and which the President has not yet signed, would largely upset the work which has been done in bringing about acceptable amendments to the renegotiation law. The amendments are acceptable to the departments and also to the contractors who are involved.

Mr. MALONEY. Mr. President, I have great appreciation as well as great admiration for the Senator from Kentucky and his views; but I think he is in error. I do not believe that this particular feature of the renegotiation of contracts question was studied by the special subcommittee of the Committee on Finance.

Mr. BARKLEY. If the Senator will read the hearings he will find that it was gone into, and that representatives of the War Department testified on that subject.

Mr. MALONEY. On the subject of renegotiation of contracts?

Mr. BARKLEY. Yes.

Mr. MALONEY. The Senator from Connecticut has read those hearings. He knows that a very great deal of time was devoted to the question of renegotiation of contracts, but not this phase of the question.

Mr. BARKLEY. Yes. The difference between money which has been paid out of the Treasury and that which has been contracted for but not paid out was gone into. The process was shown in the hearings. There is a committee which renegotiates contracts, and that subject was gone into.

Mr. MALONEY. I know that. I am talking about the particular phase of it referring to the recapture of money.

Mr. BARKLEY. We went into it.

Mr. MALONEY. That was not specially studied by the subcommittee.

Mr. BARKLEY. The Senator is mistaken. We went into the question.

Mr. DANAHER. Mr. President, simply because I have at hand figures which my colleague said he lacked with reference to lend-lease funds, I read from the President's message transmitted to us on September 14, in which he stated that from March 1941 down to September 1 the total amount of lend-lease aid was $6,489,000,000, actually spent, delivered, or in process, but that the total amount available, and appropriations actually made—and this is the point my colleague was emphasizing—aggregates $62,944,650,000.

Mr. MALONEY. It would seem to me that that would dissipate the suggestion that I was dealing in the realm of fantasy.

Mr. President, because I know how late the hour is, and because I know that Senators are anxious to get away, I have no desire to prolong the discussion, although I am prepared to discuss the matter at considerable length. Rather than do that I desire to suit the convenience of the Senate. I have offered the amendment, and I ask that it be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut [Mr. MALONEY] (putting the question).

Mr. MALONEY. Mr. President, I ask for a division.

Mr. BARKLEY. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. BARKLEY. Does the Senator have to do anything relative to suspension of the rule?

The VICE PRESIDENT. Does the Senator wish to raise a point of order?

Mr. BARKLEY. I am prepared to raise a point of order; but out of my great respect for the Senator, and since it is not my duty to make such a point of order, I hesitate to do so.

Mr. MALONEY. A point of order has not been made.

Mr. BARKLEY. It is usually the duty of the committee to make it.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Connecticut. On this question a division has been requested.

On a division the amendment was rejected.

Mr. MALONEY. Mr. President, I send to the desk another amendment which I offer. It applies only to the pending bill, and I doubt whether it raises any question as to the legislative right to offer it. I ask that the amendment be stated.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. At the proper place in the bill it is proposed to insert the following new subsection:

SEC. —. No money appropriated by this act which, as the result of renegotiation of a contract under section 403 of the Sixth Supplemental National Defense Appropriation Act (Public, 528, 77th Cong.), as amended, is retained by the United States or withheld by the United States from a contractor or subcontractor, and which would be or would have been payable to a contractor or subcontractor except for the renegotiation of such contract, shall be available for expenditure, and all such moneys so retained or withheld shall be returned to the Treasury and covered into the Treasury as miscellaneous receipts.

Mr. MALONEY. Mr. President, let me briefly explain to the Senate that this amendment would do exactly what the other amendment would do, except that it would apply only to the pending appropriation bill. Argument has been made that there is no immediate need for such legislation. I should like to say in that connection that I think it better to take action before there is need than to wait until after the need has passed and the harm is done. I do not think the question of germaneness can arise as to the amendment. I do not think it is what we call legislation on an appropriation bill. I am very hopeful that the amendment will be agreed to.

Mr. McKELLAR. Mr. President, I simply wish to say that the amendment would affect the production of airplanes whose construction is authorized in the bill. Would it not? We would not want to affect the construction of those airplanes.

Mr. MALONEY. I cannot understand the Senator.

Mr. McKELLAR. One of the largest items in the bill is for the construction of airplanes, and I understand that the amendment would affect their construction.

Mr. MALONEY. How would this amendment affect their construction?

Mr. McKELLAR. Perhaps I did not understand the Senator.

Mr. MALONEY. The amendment is identically the same as the other amendment, except that it applies to the pending bill.

Mr. McKELLAR. That is the very point. If it applies to the production of airplanes as provided for in the pending bill, I should not want the amendment to be agreed to.

Mr. MALONEY. I am afraid my time has been wasted. The amendment does not apply at all to airplanes. It does nothing to interfere with the production of airplanes.

Mr. McKELLAR. Suppose that under the bill contracts were let for the production of airplanes, and suppose there were a renegotiation as to the contracts, and that the department got back, let us say, one of the billions of dollars which is proposed to be spent under the bill for the construction of airplanes. The amendment would make the $1,000,000,000 inactive.

Mr. MALONEY. Not under my proposal. My amendment would put the billion dollars back into the Treasury Department, where it belongs.

Mr. McKELLAR. It would put it back into the Treasury, and we could pass another bill providing for the construction of more airplanes, of course. However, without the Senator's amendment we could spend the entire amount for the construction of airplanes.

Mr. MALONEY. If the Senator from Tennessee expresses the views of a majority, and if it is not the intention or desire of Congress to keep the purse-strings in hand and to retain control of Government money—and now we are dealing in billions—of course my proposal is out of place.

Mr. BARKLEY. Mr. President, will the Senator yield?

Mr. MALONEY. I yield.

Mr. BARKLEY. The Senator's amendment proposes a limitation on the appropriation; otherwise it would not be in order, as it would be regarded as legislation on an appropriation bill. I presume that the Senator's theory is that he can offer the amendment without having the rule suspended because the amendment is a limitation on the appropriation. If it is a limitation on the appropriation it is also a limitation on the department in making contracts under the appropriation bill, because, instead of making contracts hastily, as the departments were required to do in many cases—contracts which they could renegotiate later, and thus could save whatever could be saved from contracts which were hastily let because of the necessities of the moment—the War Department would be required by the amendment to sit down for perhaps weeks to haggle over the terms of a contract, because under the terms of the Senator's amendment they could not renegotiate it without having to have the money saved as a result of the renegotiation go right back into the Treasury. That would be a part of the money which we are now appropriating, money which would not be paid out but which we are appropriating. By the renegotiation they would save a certain amount of the money, but they could not spend it for airplanes without coming back to Congress and obtaining another appropriation.

Mr. MALONEY. I do not like to appear to be disrespectful, but that argument seems to me to be a terribly weak one. We have given them all the money they have asked of us for airplanes.

Mr. BARKLEY. Yes; we have. Can the Senator from Tennessee tell us the exact amount?

Mr. McKELLAR. Approximately $3,800,000,000.

Mr. BARKLEY. The Senator uses airplane contracts as an illustration. Of course, the whole appropriation carries $6,300,000,000, and the largest amount appropriated is for airplanes.

Mr. McKELLAR. It amounts to $3,800,000,000.

Mr. BARKLEY. Yes; $3,800,000,000 is appropriated for airplanes.

Under the terms of the bill the Department will proceed to let contracts for the construction of $3,800,000,000 worth of airplanes. Then later they can renegotiate some of the contracts, and perhaps save $800,000,000. If the Senator's amendment be agreed to, they would not be able to order any more airplanes with the $800,000,000, and they would not be able to let new contracts for the expenditure of the $800,000,000 for the construction of airplanes, without coming back to Congress and obtaining more authority to do exactly what we are doing now.

Mr. MALONEY. That is exactly right, and if the amendment be agreed to, neither could they spend the $800,000,000 for any one of a thousand things which might come to their minds.

Mr. BARKLEY. They could not do that anyway. They have to spend the money for the purposes for which we have appropriated it.

Therefore, the amendment, if agreed to, would handicap the War Department or whatever department is involved in making contracts in the first instance, because the departments would be deprived of the leeway which, without the amendment, they would have.

Without the amendment, they would be able to buy more airplanes with whatever money they might be able to save, but the Senator's amendment would prevent the purchase of any airplanes with such money.

Mr. MALONEY. I hope that the Army and the Navy have asked for all the money they need at this time for the building of airplanes. I feel confident that the Navy has done so. The Senator from Kentucky would have us believe that the Navy anticipates, in the immediate future, the purchase of many more airplanes with the money it will save under renegotiation of the contracts let under the pending appropriation bill. I do not understand that to be so. I do not want to hamper the Navy, but I do not want to have scattered through the various departments hundreds of millions, and perhaps billions of dollars, that will be expended at the will and whim of the people within the departments. Without stretching my imagination too far, I can conceive that at the end of the

war, if we maintain our financial structure in the interim, the departments will be able to go on for years without having to come to Congress and ask for any money; and the money that lies there now is pretty fair proof of that statement.

Mr. McKELLAR. Mr. President, will the Senator yield?

Mr. MALONEY. I yield.

Mr. McKELLAR. Let me say to the Senator and to the Senate that the renegotiation of contracts law was the result of many conferences between the Department and our committee. I refer to the original law, the one which was passed and became the law on the 28th of April. I never took more interest in a thing in my life. I think it is the best work I have ever done since I have been in Congress. Let me state to the Senator that the several departments told me that by the 1st of January over $2,000,000,000 will have been saved—one company already having returned approximately $293,000,000—and that many other sums smaller than that will be saved—sums amounting at this time to more than $1,000,000,000, and which will amount to $2,000,000,000 by the 1st of January, so these gentlemen say.

It can be imagined that I have a good deal of interest in it. I take much pride in it. I do not want to make a mistake. Judge Patterson created a very fine impression upon me. He is in charge of the matter for the Army, and the Army is more concerned in these savings than is any other department. I think the savings the first few months were something like $556,000,000 in that one department. For that reason, when Judge Patterson comes and tells me and also writes me, as he did in the letter from which I read a moment ago, that he does not think the amendments requiring all sums to be paid back into the Treasury is a workable measure, I am somewhat afraid to go along with the amendment. I think that wherever possible the money should be paid back. I think we should provide that reports be made as to what is done with these savings, probably every 60 days or every 3 months, or something of the sort. The House committee has undertaken to prepare an amendment along that line. We have not done anything about it, because that part of it was turned down by the committee over which the Senator from Massachusetts [Mr. WALSH] presides.

Mr. MALONEY. Mr. President, I should like to say that I doubt that that last statement is accurate.

Mr. McKELLAR. What does the Senator mean by that?

Mr. MALONEY. That that part of the matter was turned down by the committee of which the Senator from Massachusetts is chairman.

Mr. McKELLAR. I was present when it was turned down.

Mr. MALONEY. Perhaps I am mistaken, but we discussed the matter at length here last Saturday with the Senator from Massachusetts, and that did not develop during the course of the conference.

Mr. McKELLAR. This matter was brought up before the committee, and my understanding was the committee turned it down. It did not report it. I felt a great deal of sympathy with the desire to have the money paid back to the Treasury wherever possible. I think it should be covered in as general receipts.

Mr. WALSH. It is paid back into the Treasury if the renegotiated contract is completed. If the price is paid and a renegotiation takes place, the money refunded is sent back into the Treasury.

Mr. McKELLAR. That is my understanding of it.

Mr. WALSH. As I understand, the theory is that a contract is not completed, finished, and charged to the Army or the Navy when it is renegotiated before the last dollar is paid, and they claim that they ought to have in their account credit for the contract that is temporary in the beginning, and finally becomes permanent.

Mr. McKELLAR. I will ask the Senator, while he is on the floor, whether the committee did not take the view presented by Mr. Patterson about the matter, and for that reason turned that matter down? I so understood.

Mr. WALSH. I wish to say to the Senator from Connecticut that the question of whether the money should go to the Treasury or be credited to the Department was not gone into very fully. It was assumed by all of us that the renegotiation of a contract before the price is paid over is a departmental matter, that a department has a right to renegotiate, and should not be charged with the amount of money that it invests until the contract renegotiation has been accomplished.

Mr. McKELLAR. I made one mistake, in connection with the pending bill, in my understanding of what was being done in the committee, but as I understood it, what I have stated about the action in this regard is accurate.

Mr. WALSH. Yes; the fact that we agreed that recaptured money, after a contract was completed, should go to the Treasury, was tantamount to saying that the other money should remain in the Department.

Mr. McKELLAR. That was my understanding.

Mr. MALONEY. Mr. President, I am certain that all Senators understand the question, and I shall not delay the Senate longer.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut [putting the question]. The "noes" appear to have it.

Mr. MALONEY. I ask for a division.

The Senate divided.

The VICE PRESIDENT. The amendment is rejected.

Mr. MALONEY. I know the Vice President is correct about the result but would he have any objection to telling us what the numbers were?

The VICE PRESIDENT. It seems to be against the custom to do that.

Mr. MALONEY. I withdraw the request.

The VICE PRESIDENT. When the Chair reached the number of "ayes" when counting the "noes," he stopped counting. He did not count the rest.

Mr. MALONEY. I was not familiar with the rule on the subject, and as a matter of fact I was attempting to do just what the rules do not permit. I was attempting to show the number of Senators present, and I realize it was a mistake.

The VICE PRESIDENT. The question is on the engrossment of the amendments, and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H. R. 7672) was read the third time and passed.

Mr. McKELLAR. I move that the Senate insist upon its amendments, request a conference with the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. McKELLAR, Mr. GLASS, Mr. HAYDEN, Mr. TYDINGS, Mr. RUSSELL, Mr. NYE, and Mr. LODGE conferees on the part of the Senate.

ORDER FOR RECESS TO THURSDAY

Mr. BARKLEY. Mr. President, I ask unanimous consent that when the Senate concludes its business today it stand in recess until 11 o'clock a. m. Thursday next.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

RENEGOTIATING WAR CONTRACTS

Mr. WALSH. Mr. President, there has been so much interest in the amendments made to the renegotiation of war contracts laws in the new tax bill, H. R. 7378, that I think two drafting changes made on Saturday by the committee of conference, and the reasons therefor, should be printed in the CONGRESSIONAL RECORD, together with the portion of the Finance Committee report on this subject which explains the other amendments now incorporated in H. R. 7378, and which in all probability will become law by the signing of the bill by the President.

I therefore ask that the letter I send to the desk, together with the appropriate part of the report, be printed in the RECORD.

There being no objection, the matters were ordered to be printed in the RECORD, as follows:

TREASURY DEPARTMENT,
Washington, October 19, 1942.

Hon. DAVID I. WALSH,
United States Senate, Washington, D. C.

MY DEAR SENATOR: You have requested a description of the amendments to the Senate bill with respect to renegotiation of war contracts which were adopted by the Committee of Conference on H. R. 7378.

Most of the amendments were purely drafting changes designed to clarify the language of the Senate amendment. Two matters of substance are, however, included.

1. In cases in which a contractor holds contracts with more than one of the renegotiating agencies, it is the present administrative practice to have the agency with which the contractor has his major contracts renegotiate all of the contractor's contracts. This procedure is designed to obviate the necessity of forcing the contractor to renegotiate with several agencies which may have slightly different standards. The present law contains no express authority for the Secretary of one

Department to sign a renegotiation agreement respecting contracts held by another Department and it has been thought desirable that such authority be granted in order to confirm the administrative practice above described. The amendment agreed to in conference accordingly amends subsection (f) of section 403 along these lines.

2. As you will recall, the Senate bill provided that where income and excess profits taxes were paid or payable with respect to excessive profits eliminated pursuant to renegotiation, the amount of such taxes should be credited against the excessive profits so eliminated. If the amount of such taxes were in dispute between the contractor and the Commissioner of Internal Revenue, the language of the Senate bill would permit no credit for the benefit of the contractor unless he agreed to the Commissioner's determination. The contractor might, therefore, be forced to repay the full amount of excessive profits required to be recaptured under section 403 and then be forced to sue the Commissioner for a refund of all taxes paid or payable with respect to the excessive profits recaptured. This procedure was felt to be unduly burdensome to the contractors. It has, therefore, been provided, in the amendments agreed to in conference, that credit should be allowed for the amount of taxes which the Commissioner determines to be attributable to the excessive profits eliminated under section 403 and, as to any balance which may have been claimed by the contractor as so attributable, the contractor may file a claim for refund with the Commissioner. As a matter of drafting convenience, this provision has been incorporated in section 508 of H. R. 7378, which in the Senate bill adds a new section 3805 to the Internal Revenue Code respecting disallowance by the Comptroller General of reimbursement for costs in connection with cost-plus-a-fixed-fee contracts. It was felt that this matter properly belonged in the Internal Revenue Code rather than in the renegotiation statute.

An example will illustrate the operation of this amendment. Assume that in 1944 a renegotiation agreement requires the repayment by the contractor of $100,000 which the contractor had included in gross income in his tax return for the year 1942. The Commissioner of Internal Revenue asserts that $60,000 is the amount of tax paid by the contractor for the year 1942 which is attributable to this $100,000 item. The contractor, however, contends that $70,000 is the amount of tax properly attributable to such item. Under the provisions of the Senate bill, the Secretary was not required to allow credit for taxes paid unless the contractor and the Commissioner were in agreement. In this case, unless the contractor were willing to accept the Commissioner's determination of $60,000 as final, he would be forced under the Senate bill to repay $100,000 to the Government pursuant to section 403 and file with the Commissioner a claim for refund of $70,000. Under the amendments agreed to in conference, the Secretary must allow the contractor a credit of $60,000. The contractor will thus repay to the Government $40,000 and file with the Commissioner a claim for refund of $10,000.

Sincerely yours,

ROBERT B. EICHHOLZ,
Assistant Tax Legislative Counsel.

AMENDMENTS

1. Section 403 (a) (1) of Public, 528, defines the term "department" to include War Department, Navy Department, and Maritime Commission. This new amendment will include the Treasury Department. The Treasury Department embraces the Procurement Division of the Government which does much contracting for lend-lease materials. It is therefore deemed desirable that the effort to prevent excessive profits should be applicable to the Department of the Government.

2. Subsection (a) (4) merely defines the term "excessive profits," there being no clear definition of what this term means in the original law.

3. Subsection (a) (5) defines the term "subcontract." Originally there was a difference of opinion between the Army, on the one hand, and the Navy and Maritime Commission on the other, as to the extent and scope of the definition of "subcontract." A final agreement has been reached between these departments of the Government and the term "subcontract" is now defined as meaning—

"any purchase order or agreement to perform all or any part of the work, or to make or furnish any article, required for the performance of another contract or subcontract. The term 'article' includes any material, part, assembly, machinery, equipment, or other personal property."

The original difference between the Army definition and the definition proposed by the Navy and Maritime Commission was whether or not the negotiators should have authority in the matter of redetermining the prices of ordinary commercial articles. The Army felt there was no reason for renegotiation in the case of articles to which price ceilings were applicable, as they are in the case of nearly all commercial articles. The Maritime Commission and the Navy Department pointed out that price ceilings were fixed on the basis of unit price. The Government and contractors purchase these units of given commercial articles, but their purchases are in such large volume that they are able to obtain a much lower price than the price ceiling. The Navy and the Maritime Commission believed they should have the right to inquire and to determine whether or not even the cost, when at a lower-than-ceiling price, does not embrace excessive profits. The Maritime Commission also pointed out that the component parts of merchant ships might well be considered to be commercial articles and that, furthermore, exclusions of such articles might interfere with the recapture provisions of the Merchant Marine Act of 1936. The language of the amendment finally agreed to includes the commercial articles named.

4. Subsection (b) (2) and (3) makes it clear that no contractor will be compelled to reimburse the Treasury for excessive profits determined until he has received his contract price from the Government. Of course there was no doubt that if excess profits were found to exist before the contract price was paid, a deduction could be made from the contract price.

5. The amendments to subsection (b) (3) have two additional purposes: (i) While the present statute appears to require the Government to withhold money from a subcontractor, such withholding is normally impossible because the Government owes nothing to the subcontractor. The amendment therefore requires the prime contractor to withhold sums for the account of the Government in subcontract cases. (ii) The present law only permits the insertion in the subcontracts made by the prime contractors of provisions similar to those required by the statute in the case of prime contracts. The amendment would permit the insertion of such contract provisions in any subcontract at the discretion of the Secretary.

6. The first part of subsection (b) (4) makes it clear that prime contractors are only liable for reductions in the contract prices of their subcontracts where the prime contractor receives the benefit of the price reduction.

7. The second part of subsection (b) (4) permits the Secretary to fix the period or periods for renegotiation and in this way prescribe a statute of limitations. If he believes the provisions of the contract are otherwise adequate to prevent excessive profits, he may restrict renegotiation to a portion of the contracts or he may make the contract price firm during a specified period or periods, and he may provide that the contract price in effect during such period or periods shall not be subject to renegotiation. The inflexible provisions of the present law make it difficult, if not impossible, to make firm prices for limited periods. It is felt that the power to make firm prices for very limited periods is essential in negotiating target prices which afford the contractor an incentive to reduce his costs.

8. A new sentence has been added at the end of subsection (c) (1) which expressly permits renegotiation of some or all of a contractor's contracts as a group. This procedure has been found to be more administratively practical where a contractor holds a very large number of contracts.

9. Subsection (c) (2) has been revised to relieve a surety under a contract from liability for excessive profits thereon, as was done under the Vinson-Trammel Act.

10. Subsection (c) (3) has been revised expressly to authorize the offset of excess-profits taxes paid against the excessive profits covered by the renegotiation statute. Although such offset has been in effect, administratively, it has been thought desirable to write it into the law. Contractors will thus be assured that there will be no possibility of a double penalty for excess profits; once through the excess-profits tax and again through renegotiation. It is also provided that the Secretary shall give due recognition, in the ascertainment of whether profits are excessive, to be properly applicable exclusions and deductions, which are allowed for tax purposes.

11. Subsection (c) (4) authorizes the making of final agreements between the Government and a contractor or subcontractor, which will be binding upon both parties and will preclude reopening or renegotiation at a later date. This provision should remove fears which have been expressed that the present law authorizes an infinite number of renegotiations with respect to the same fiscal period, and that contractors are thus precluded from learning with certainty of their financial position until long after the war.

12. Subsection (c) (5) enables a contractor or subcontractor of his own motion, to obtain a clearance from liability for excessive profits under the statute. It is provided that he may file financial statements for any prior fiscal year or years, and unless within 1 year thereafter, or within such shorter period as may be prescribed, renegotiation has been commenced, the contractor or subcontractor will automatically be relieved of liability for excessive profits in respect of such fiscal year or years.

13. Subsection (c) (6) limits the time within which renegotiation of any particular contract or subcontract may be commenced to 1 year after the close of the fiscal year within which a contract or subcontract is completed. No such provision is contained in the present law and as a result a contract already completed may be renegotiated at any time before 3 years after the end of the war. This amendment will enable contractors to ascertain their final liabilities as rapidly as possible.

The subsection, in the interests of good administration, also limits renegotiation to cases in which the aggregate sales to the Government by the contractor or subcontractor exceed $100,000 for his fiscal year.

14. A new subsection (i) has been added to the present statute permitting exemption from renegotiation in the case of certain limited types of contracts.

(a) Government contracts: Contracts between the War, Navy, and Treasury Departments and the Maritime Commission, and

any other Federal or local agency or any foreign government, are completely exempted.

(b) Raw materials: Any contract or subcontract for raw materials is also completely exempted. Raw materials are defined as "the product of a mine, oil or gas well, or other mineral or natural deposit, or timber which has not been processed, refined, or treated beyond the first form or stage suitable for industrial use." All the departments concerned agreed, on the grounds of administrative simplicity, that contracts and subcontracts for raw materials should be exempted.

(c) Contracts or subcontracts to be performed outside the continental United States or Alaska, may be exempted in the discretion of the department concerned: It would obviously be extremely difficult to require renegotiation in the case of a foreign contractor performing work in a foreign territory.

(d) Contracts where the profits can be determined with reasonable certainty when the price is established: The secretary of the department concerned is authorized, in his discretion, to exempt such contracts. Examples of the types of contracts covered by this provision are agreements for personal services, for the purchase of real property, perishable goods, or commodities (the minimum price for the sale of which has been fixed by a public regulatory body), leases and license agreements, and agreements, the period of performance of which will not exceed 30 days.

(e) Target price contracts: If, in the opinion of the secretary, the provisions of the contract are otherwise adequate to prevent excessive profits, a portion of the contract may be exempted from renegotiation during a specified period or periods.

15. Subsection (j) clarifies present provisions of the law to assure those temporarily and intermittently employed by any department concerned, that they are not precluded from prosecuting a claim against the United States in their private capacity if such a claim does not arise from any matter directly connected with the governmental employment of such person, and if such claim is not prosecuted during the period such person is employed by the Government.

MOBILIZATION OF THE TECHNOLOGICAL RESOURCES

Mr. HAYDEN. Mr. President, from the Committee to Audit and Control the Contingent Expenses of the Senate, I report favorably Senate Resolution 303, and ask unanimous consent for its present consideration.

The VICE PRESIDENT. Is there objection?

There being no objection the Senate proceeded to consider the resolution (S. Res. 303), which had previously been reported from the Committee on Military Affairs, with an amendment, on page 1, line 12, after the words "Seventy-seventh", to strike out "and succeeding Congresses", and to insert "Congress", so as to read:

Resolved, That the subcommittee on technological mobilization of the Military Affairs Committee is authorized and directed to study the possibilities of better mobilizing the technological resources of the United States, for the more efficient prosecution of the war. The subcommittee shall report to the Military Affairs Committee at the earliest practicable date the results of its investigation, together with its recommendations, if any, for necessary legislation

For the purpose of this resolution, the subcommittee is authorized to hold such hearings, to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Seventy-seventh Congress, to employ such clerical and other assistants, to borrow from Government agencies and departments such special assistants, to require by suppena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents, to administer such oaths, to take such testimony, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed $2,500, in addition to the cost of stenographic services to report such hearings, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman.

The amendment was agreed to.

The resolution as amended was agreed to.

EXECUTIVE SESSION

Mr. McKELLAR. I move that the Senate proceed to the consideration of Executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGE REFERRED

The VICE PRESIDENT laid before the Senate a message from the President of the United States nominating Capt. Edward L. Cochrane to be Chief of the Bureau of Ships in the Department of the Navy, with the rank of rear admiral, for a term of 4 years, from the 1st day of November 1942, which was referred to the Committee on Naval Affairs.

EXECUTIVE REPORTS OF A COMMITTEE

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

The VICE PRESIDENT. If there be no further reports of committees, the clerk will state the nominations on the Executive Calendar.

POSTMASTERS

The Chief Clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask unanimous consent that the postmaster nominations be confirmed en bloc.

The VICE PRESIDENT. Without objection, the nominations are confirmed en bloc.

THE ARMY

The Chief Clerk proceeded to read sundry nominations in the Army.

The VICE PRESIDENT. Without objection, the Army nominations are confirmed en bloc.

THE NAVY

The Chief Clerk read the nomination of Oliver M. Read to be rear admiral in the Navy, for temporary service.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

THE MARINE CORPS

The Chief Clerk proceeded to read sundry nominations in the Marine Corps.

Mr. WALSH. I ask unanimous consent that the nominations in the Marine Corps be confirmed en bloc.

The VICE PRESIDENT. Without objection, the nominations are confirmed en bloc.

Mr. WALSH. I ask unanimous consent that the President be immediately notified of all confirmations of today.

The VICE PRESIDENT. Without objection, the President will be notified forthwith of all confirmations made today.

RECESS TO THURSDAY

Mr. McKELLAR. Mr. President, as in legislative session, in conformity with the unanimous consent already given, I move that the Senate take a recess until Thursday next at 11 o'clock a. m.

The motion was agreed to; and (at 6 o'clock and 29 minutes p. m.) the Senate took a recess, the recess being, under the order previously entered, until Thursday, October 22, 1942, at 11 o'clock a. m.

NOMINATIONS

Executive nominations received by the Senate October 20 (legislative day of October 15), 1942:

IN THE NAVY

Capt. Edward L. Cochrane, to be Chief of the Bureau of Ships in the Department of the Navy, with the rank of rear admiral, for a term of 4 years, from the 1st day of November 1942.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 20 (legislative day, October 15), 1942:

IN THE ARMY

TEMPORARY APPOINTMENTS IN THE ARMY OF THE UNITED STATES

To be lieutenant generals

Robert Lawrence Eichelberger
George Churchill Kenny

To be brigadier general

Neal Creighton Johnson.

IN THE NAVY

PROMOTION FOR TEMPORARY SERVICE

To be a rear admiral in the Navy, for temporary service, to rank from May 9, 1942

Oliver M. Read

IN THE MARINE CORPS

PROMOTIONS IN THE REGULAR SERVICE

To be colonel

William T. Clement

To be first lieutenant

Russell Duncan

To be second lieutenants

Gordon R. Lockard	James C. Fetters
Thomas T. Grady	Donald R. France
Leonard G. Lawton	Robert H. Venn
Victor R. Bisceglia	William B. Onley, Jr.
Robert W. Dyer	Edgar L. Allen
Robert F. Thompson	Charles H. LeClaire
John D. Mattox	Edwin H. Klein
Richard W. Schutt	George W. Ellis, Jr.
James P. Wilson	Alfred J. McCourtney.
Alfred E. Holland	David W. Bridges
Monson J. McCarty	Burdette A. Ogle
Robert L. Raclin	William K. Gillespie
Wyman W. Trotti	Robert D. Mellin
Charles S. Robertson	Jefferson D. Smith, Jr.

POSTMASTERS

ALABAMA

Olis O. Goode, Rogersville.
Marguerite Noles Skinner, Thomaston.

ALASKA

Hollis Henrichs, Cordova.

CALIFORNIA

Mary Ella Dow, Anderson.
Frederick A. Dickinson, Ben Lomon
John G. Carroll, Calexico.
Harry B. Hooper, Capitola.
Harold E. Rogers, Chowchilla.
Frank J. Roche, Concord.
Alice D. Scanlon, Colfax.
Robert A. Clothier, Cotati.
L. Belle Morgan, Encanto.
Faith I. Wyckoff, Firebaugh.
Mary B. Bradford, Galt.
Ralph W. Dunham, Greenfield.
Frederick N. Blanchard, Laton.
Bert A. Wilson, Los Banos.

GEORGIA

George B. McIntyre, Ailey.
William H. Wood, Jr., Loganville.
Hugh L. Johnston, Woodstock.

KANSAS

Harriet Pearl Hinshaw, Arlington.
Sophia Kesselring, Atwood.
Charles Ward Smull, Bird City.
Jane Waters, Bonner Springs.
Charles A. Hegarty, Effingham.
Page Manley, Elk City.
Walter S. Davis, Florence.
Rosa J. Munger, Hanover.
Warren D. Gilmore, Highland.
Ivan R. Mort, Hill City.
William A. B. Murray, Holyrood.
Robert E. Deveney, Meriden.
Grace E. Wilson, Milford.
Eunice E. Buche, Miltonvale.
Perry S. Kozel, Morrowville.
Edison Brack, Otis.
Lawrence W. Leisure, Pleasanton.
Ralph L. Hinnen, Potwin.
George J. Smith, Summerfield.

OHIO

Walter T. Ault, Findlay.
Harry A. Higgins, Xenia.

PENNSYLVANIA

Charles T. Bonner, Glen Riddle.
Cornelius McCullough, Lansdowne.
Marea Stover, Shrewsbury.

HOUSE OF REPRESENTATIVES

TUESDAY, OCTOBER 20, 1942

The House met at 11 o'clock a. m., and was called to order by the Speaker.

Hon. CHARLES A. EATON, of New Jersey, offered the following prayer:

Unto the Eternal King, Our Father, we lift our hearts in humble gratitude for His divine mercy. In confession of our sins, and in petition for His help in facing the great duties that confront us, we bow in thanksgiving for all His goodness, and dedicate our lives afresh to His service.

In the name of Jesus, our Divine Redeemer. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Frazier, its legislative clerk, announced that the Senate had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the House to bills of the Senate of the following titles:

S. 2471. An act to amend the act entitled "An act to prevent pernicious political activities," approved August 2, 1939, as amended, with respect to its application to officers and employees of educational, religious, eleemosynary, philanthropic, and cultural institutions, establishments, and agencies, commonly known as the Hatch Act; and

S. 2751. An act to amend the act entitled "An act to establish a Women's Army Auxiliary Corps for service with the Army of the United States," approved May 14, 1942, to create the grade of field director in such corps, to provide for the enrolled grades in such corps comparable to the enlisted grades in the Regular Army, to provide pay and allowances for all members of such corps at the same rates as those payable to members of the Regular Army in corresponding grades, and for other purposes.

VISIT OF MEMBERS OF APPROPRIATIONS COMMITTEE TO RIO DE JANEIRO

The SPEAKER laid before the House the following communications:

DEPARTMENT OF STATE,
Washington, October 16, 1942.

MY DEAR MR. SPEAKER: I take pleasure in transmitting, at the request of the Brazilian Ambassador, a communication expressing the appreciation of the President of Brazil for the congressional motion of February 2, 1942, regarding the visit of five members of the subcommittee of the House Committee on Appropriations to Rio de Janeiro.

Sincerely yours,

SUMNER WELLES,
Acting Secretary.

[Translation]

EMBASSY OF THE UNITED STATES OF BRAZIL,
Washington, October 8, 1942.

No. 449/501.48.

MR. SECRETARY OF STATE: I have the honor to address Your Excellency to request you to have the kindness to transmit to the House of Representatives of the United States of America the thanks of His Excellency the President of the Republic of Brazil for the motion of February 2, of the current year, expressing to His Excellency and the people of Brazil the deep appreciation for the cordial demonstration of friendship for the Congress and the people of the United States of America on the occasion of the visit to Rio de Janeiro of five members of the Budget Committee.

2. His Excellency was deeply moved by the above-mentioned motion and the expressions of solidarity and friendship therein contained, which are so characteristic of the relations between the two friendly countries.

I avail (etc.) * * *

CARLOS MARTINS PEREIRA E SOUSA.

His Excellency MR. CORDELL HULL,
Secretary of State of the United States of America.

CONFERENCE REPORT ON THE REVENUE BILL

Mr. DOUGHTON. Mr. Speaker, I call up the conference report on the bill (H. R. 7378) to provide revenue, and for other purposes, and ask unanimous consent that the statement may be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the statement.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7378) to provide revenue, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 76, 114, 216, 243, 337, 388, 389, 392, 400 407, 414, 415, 432, 436, 461, 484, 492, and 501.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 72, 73, 74, 75, 79, 80, 82, 84, 85, 87, 89, 90, 91, 94, 95, 96, 97, 98, 99, 100, 101, 102, 108, 109, 113, 118, 119, 120, 121, 122, 123, 126, 128, 129, 132, 133, 134, 135, 136, 138, 139, 140, 141, 142, 143, 144, 145, 146, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 162, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 180, 182, 183, 184, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 198, 199, 200, 201, 202, 207, 209, 210, 211, 212, 213, 214, 218, 222, 223, 225, 226, 227, 228, 229, 230, 231, 232, 233, 235, 236, 237, 238, 239, 240, 241, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 292, 293, 294, 295, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 390, 393, 394, 395, 396, 397, 398, 401, 403, 404, 405, 406, 408, 409, 410, 411, 412, 413, 416, 417, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 433, 434, 437, 439, 440, 441, 442, 443, 444, 445, 446, 447, 450, 451, 452, 453, 454, 455, 456, 457, 458, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 475, 476, 477, 478, 479, 480, 481, 482, 483, 485, 486, 487, 488, 489, 490, 491, 493, 494, 495, 496, and 502, and agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: "$385"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"In the case of any corporation computing such tax under section 721 (relating to abnormalities in income in the taxable period), section 726 (relating to corporations completing contracts under the Merchant Marine Act of 1936), section 731 (relating to corporations engaged in mining strategic minerals), or section 736 (b) (relating to corporations with income from long-term contracts), the credit shall be the amount of which the tax imposed by such subchapter is 90 per centum. For the purpose of the preceding sentence, the term 'tax imposed by subchapter E of chapter 2' means the tax computed without regard to the limitation provided in section 710 (a) (1) (B) (the 80 per centum limitation), without regard to the credit provided in section 729 (c) and (d) for foreign taxes paid, and without regard to the adjustments provided in section 734."

And the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: Omit the matter proposed to be inserted by